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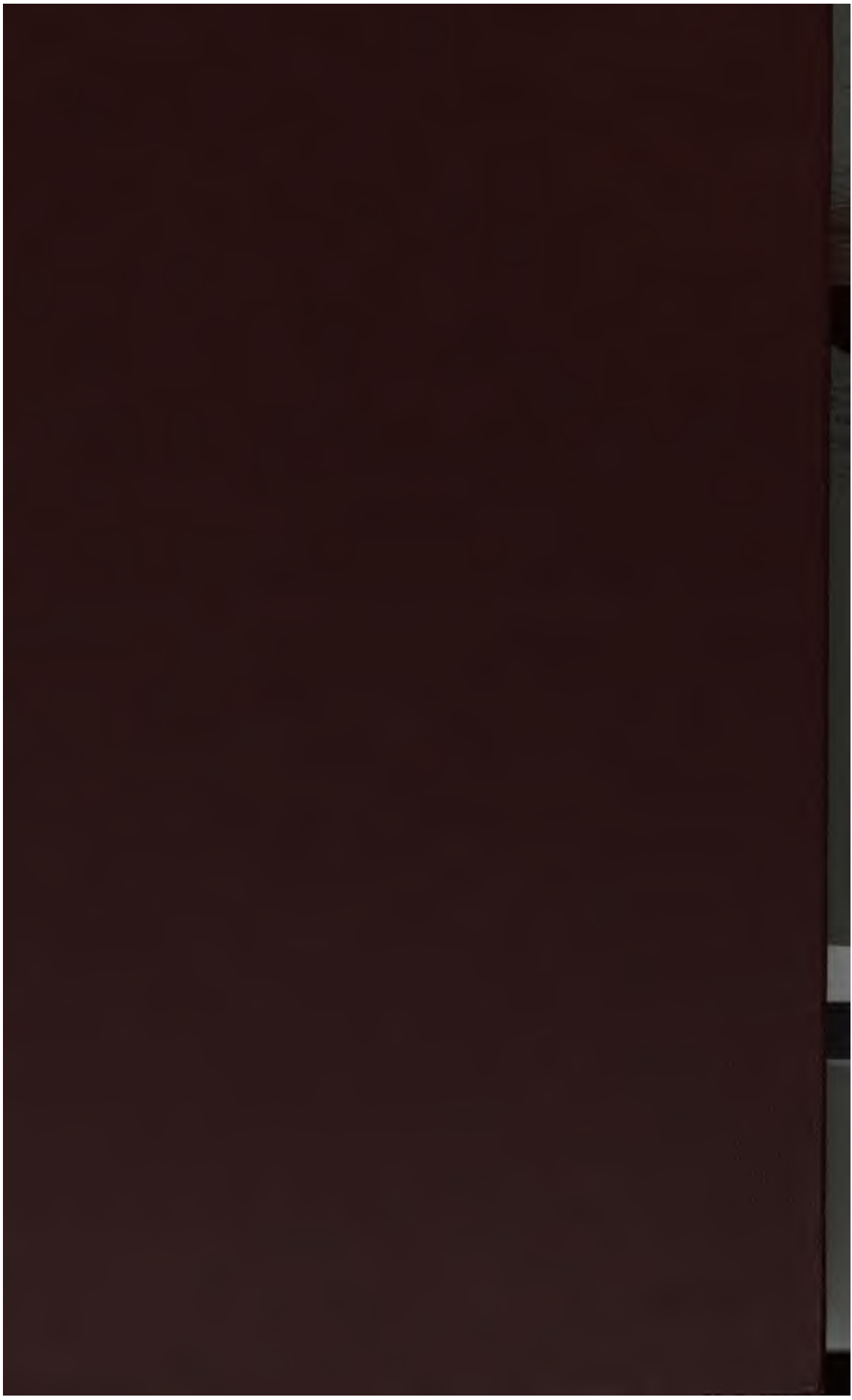

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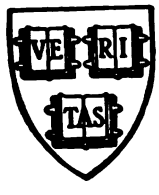

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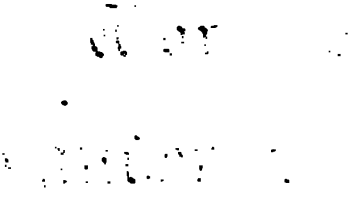

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[HAMILTON—*The Farmer Refuted*, 1775, Æt. 18.]

"We are laboring hard to establish in this country principles more and more *national*, and free from all foreign ingredients, so that we may be neither 'Greeks nor Trojans,' but truly Americans."—[HAMILTON TO KING, 1796, Æt. 39.]

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COINAGE AND THE MINT

COINAGE AND THE MINT

HAMILTON TO JEFFERSON

June 13, 1790.

THE Secretary of the Treasury has the honor to acknowledge the reception of the Report of the Secretary of State on the subject of measures, weights, and coins. There is no view which he has taken of the matter which stands opposed to the alteration of the money unit as at present contemplated by the regulations of Congress, either in the way suggested in the Report or in that mentioned in the note of yesterday. And there are certainly strong reasons to render a correspondency desirable. The idea of a general standard among nations, as in the proposal of the Bishop d'Autun, seems full of convenience and order.

ON THE ESTABLISHMENT OF A MINT[1]

Communicated to the House of Representatives, January 28, 1791.

The Secretary of the Treasury having attentively considered the subject referred to him by the order

[1] The chief interest of this very able report centres in the discussion of the comparative merits of a double or single standard. Hamilton decides in favor of the former, and his argument has a very present and immediate value. It is needless to say that he, of course, did not favor the overvaluation of one metal, but wished as exact an equality as possible to be maintained between gold and silver.

of the House of Representatives, of the fifteenth of April last, relatively to the establishment of a mint, most respectfully submits the result of his inquiries and reflections.

A plan for an establishment of this nature involves a great variety of considerations—intricate, nice, and important. The general state of debtor and creditor; all the relations and consequences of price; the essential interests of trade and industry; the value of all property; the whole income, both of the state and of individuals, are liable to be sensibly influenced, beneficially or otherwise, by the judicious or injudicious regulation of this interesting object.

It is one, likewise, not more necessary than difficult to be rightly adjusted; one which has frequently occupied the reflections and researches of politicians, without having harmonized their opinions on some of the most important of the principles which enter into its discussion. Accordingly, different systems continue to be advocated, and the systems of different nations, after much investigation, continue to differ from each other.

But, if a right adjustment of the matter be truly of such nicety and difficulty, a question naturally arises, whether it may not be most advisable to leave things, in this respect, in the state in which they are. Why, might it be asked, since they have so long proceeded in a train which has caused no general sensation of inconvenience, should alterations be attempted, the precise effect of which cannot with certainty be calculated?

The answer to this question is not perplexing.

The immense disorder which actually reigns in so delicate and important a concern, and the still greater disorder which is every moment possible, call loudly for a reform. The dollar originally contemplated in the money transactions of this country, by successive diminutions of its weight and fineness, has sustained a depreciation of five per cent., and yet the new dollar has a currency, in all payments in place of the old, with scarcely any attention to the difference between them. The operation of this in depreciating the value of property, depending upon past contracts, and (as far as inattention to the alteration in the coin may be supposed to leave prices stationary) of all other property, is apparent. Nor can it require argument to prove that a nation ought not to suffer the value of the property of its citizens to fluctuate with the fluctuations of a foreign mint, and to change with the changes in the regulations of a foreign sovereign. This, nevertheless, is the condition of one which, having no coins of its own, adopts with implicit confidence those of other countries.

The unequal values allowed in different parts of the Union to coins of the same intrinsic worth, the defective species of them which embarrass the circulation of some of the States, and the dissimilarity in their several moneys of account, are inconveniences which, if not to be ascribed to the want of a national coinage, will at least be most effectually remedied by the establishment of one—a measure that will, at the same time, give additional security against impositions by counterfeit as well as by base currencies.

It was with great reason, therefore, that the attention of Congress, under the late Confederation, was repeatedly drawn to the establishment of a mint; and it is with equal reason that the subject has been resumed, now that the favorable change which has taken place in the situation of public affairs admits of its being carried into execution.

But though the difficulty of devising a proper establishment ought not to deter from undertaking so necessary a work, yet it cannot but inspire diffidence in one, whose duty it is made to propose a plan for the purpose, and may perhaps be permitted to be relied upon as some excuse for any errors which may be chargeable upon it, or for any deviations from sounder principles which may have been suggested by others, or even in part acted upon by the former Government of the United States.

In order to a right judgment of what ought to be done, the following particulars require to be discussed.

1st. What ought to be the nature of the money unit of the United States?

2d. What the proportion between gold and silver, if coins of both metals are to be established?

3d. What the proportion and composition of alloy in each kind?

4th. Whether the expense of coinage shall be defrayed by the government, or out of the material itself?

5th. What shall be the number, denominations, sizes, and devices of the coins?

6th. Whether foreign coins shall be permitted to

be current or not; if the former, at what rate, and for what period?

A prerequisite to determining with propriety what ought to be the money unit of the United States, is to endeavor to form as accurate an idea as the nature of the case will admit, of what it actually is. The pound, though of various value, is the unit in the money account of all the States. But it is not equally easy to pronounce what is to be considered as the unit in the coins. There being no formal regulation on the point (the resolutions of Congress of the 6th July, 1785, and 8th of August, 1786, having never yet been carried into operation), it can only be inferred from usage or practice. The manner of adjusting foreign exchanges would seem to indicate the dollar as best entitled to that character. In these the old piaster of Spain, or old Seville piece of eight *reals*, of the value of four shillings and sixpence sterling, is evidently contemplated. The computed par between Great Britain and Pennsylvania will serve as an example. According to that, one hundred pounds sterling is equal to one hundred and sixty-six pounds and two thirds of a pound, Pennsylvania currency, which corresponds with the proportion between 4*s*. 6*d*. sterling and 7*s*. 6*d*., the current value of the dollar in that State by invariable usage. And, as far as the information of the Secretary goes, the same comparison holds in the other States.

But this circumstance in favor of the dollar loses much of its weight from two considerations. That species of coin has never had any settled or standard

value, according to weight or fineness, but has been permitted to circulate by tale, without regard to either, very much as a mere money of convenience, while gold has had a fixed price by weight, and with an eye to its fineness. This greater stability of value of the gold coins is an argument of force for regarding the money unit as having been hitherto virtually attached to gold, rather than to silver.

Twenty-four grains and six eighths of a grain of fine gold have corresponded with the nominal value of the dollar in the several States, without regard to the successive diminutions of its intrinsic worth.

But, if the dollar should, nothwithstanding, be supposed to have the best title to being considered as the present unit in the coins, it would remain to determine what kind of dollar ought to be understood; or, in other words, what precise quantity of fine silver.

The old piaster of Spain, which appears to have regulated our foreign exchanges, weighed 17 dwt. 12 grains, and contained 386 grains and 15 mites of fine silver. But this piece has been long since out of circulation. The dollars now in common currency are of recent date, and much inferior to that, both in weight and fineness. The average weight of them, upon different trials, in large masses, has been found to be 17 dwt. 8 grains. Their fineness is less precisely ascertained; the results of various assays, made by different persons, under the direction of the late Superintendent of Finances and of the Secretary, being as various as the assays themselves. The difference between their extremes is not less

than 24 grains in a dollar of the same weight and age, which is too much for any probable differences in the pieces. It is rather to be presumed, that a degree of inaccuracy has been occasioned by the want of proper apparatus and, in general, of practice. The experiment which appears to have the best pretensions to exactness would make the new dollar to contain 370 grains and 933 thousandth parts of a grain of pure silver.

According to an authority on which the Secretary places reliance, the standard of Spain for its silver coin, in the year 1761, was 261 parts fine and 27 parts alloy, at which proportion a dollar of 17 dwt. 8 grains would consist of 377 grains of fine silver and 39 grains of alloy. But there is no question that this standard has been since altered considerably for the worse—to what precise point is not as well ascertained as could be wished; but, from the computation of the value of dollars in the markets both of Amsterdam and London (a criterion which cannot materially mislead), the new dollar appears to contain about 368 grains of fine silver, and that which immediately preceded it about 374 grains.

In this state of things, there is some difficulty in defining the dollar which is to be understood as constituting the present money unit, on the supposition of its being most applicable to that species of coin. The old Seville piece of 386 grains and 15 mites fine, comports best with the computations of foreign exchanges, and with the more ancient contracts respecting landed property; but far the greater number of contracts still in operation concerning

that kind of property, and all those of a merely personal nature, now in force, must be referred to a dollar of a different kind. The actual dollar, at the time of contracting, is the only one which can be supposed to have been intended; and it has been seen that, as long ago as the year 1761, there had been a material degradation of the standard. And even in regard to the more ancient contracts, no person has ever had any idea of a scruple about receiving the dollar of the day as a full equivalent for the nominal sum which the dollar originally imported.

A recurrence, therefore, to the ancient dollar would be in the greatest number of cases an innovation *in fact*, and in all, an innovation in respect to opinion. The actual dollar in common circulation has evidently a much better claim to be regarded as the actual money unit.

The mean intrinsic value of the different kinds of known dollars has been intimated as affording the proper criterion. But, when it is recollected that the more ancient and more valuable ones are not now to be met with at all in circulation, and that the mass of those generally current is composed of the newest and most inferior kinds, it will be perceived that even an equation of that nature would be a considerable innovation upon the real present state of things; which it will certainly be prudent to approach, as far as may be consistent with the permanent order designed to be introduced.

An additional reason for considering the prevailing dollar as the standard of the present money unit, rather than the ancient one, is, that it will not only be

conformable to the true existing proportion between the two metals in this country, but will be more conformable to that which obtains in the commercial world generally.

The difference established by custom in the United States between coined gold and coined silver has been stated upon another occasion to be nearly as 1 to 15.6. This, if truly the case, would imply that gold was extremely overvalued in the United States; for the highest *actual proportion* in any part of Europe, very little, if at all, exceeds 1 to 15, and the average proportion throughout Europe is probably not more than about 1 to 14 4/5. But that statement has proceeded upon the idea of the ancient dollar. One pennyweight of gold of twenty-two carats fine, at 6*s.* 8*d.*, and the old Seville piece of 386 grains and 15 mites of pure silver, at 7*s.* 6*d.*, furnish the exact ratio of 1 to 15.6262. But this does not coincide with the real difference between the metals in our market, or, which is with us the same thing, in our currency. To determine this, the quantity of fine silver in the general mass of the dollars now in circulation must afford the rule. Taking the rate of the late dollar of 374 grains, the proportion would be as 1 to 15.11. Taking the rate of the newest dollar, the proportion would then be as 1 to 14.87. The mean of the two would give the proportion of 1 to 15 very nearly: less than the legal proportions in the coins of Great Britain, which is as 1 to 15.2; but somewhat more than the actual or market proportion, which is not quite 1 to 15.

The preceding view of the subject does not indeed

afford a precise or certain definition of the present unit in the coins, but it furnishes data which will serve as guides in the progress of the investigation. It ascertains, at least, that the sum in the money of account of each State, corresponding with the nominal value of the dollar in such State, corresponds also with 24 grains and 6/8 of a grain of fine gold, and with something between 368 and 374 grains of fine silver.

The next inquiry towards a right determination of what ought to be the future money unit of the United States turns upon these questions: Whether it ought to be peculiarly attached to either of the metals, in preference to the other, or not; and, if to either, to which of them?

The suggestions and proceedings, hitherto, have had for object, the annexing of it emphatically to the silver dollar. A resolution of Congress, of the 6th of July, 1785, declares that the money unit of the United States shall be a dollar; and another resolution of the 8th of August, 1786, fixes that dollar at 375 grains and 64 hundredths of a grain of fine silver. The same resolution, however, determines that there shall also be two gold coins, one of 246 grains and 268 parts of a grain of pure gold, equal to ten dollars, and the other of half that quantity of pure gold, equal to five dollars. And it is not explained, whether either of the two species of coins, of gold or silver, shall have any greater legality in payments than the other. Yet it would seem that a preference in this particular is necessary to execute the idea of attaching the unit exclusively to one kind. If each

of them be as valid as the other, in payments to any amount, it is not obvious in what effectual sense either of them can be deemed the money unit rather than the other.

If the general declaration, that the dollar shall be the money unit of the United States, could be understood to give it a superior legality in payments, the institution of coins of gold, and the declaration that each of them shall be *equal* to a certain number of dollars, would appear to destroy that inference. And the circumstance of making the dollar the unit in the money of account, seems to be rather matter of form than of substance.

Contrary to the ideas which have heretofore prevailed, in the suggestions concerning a coinage for the United States, though not without much hesitation, arising from a deference for those ideas, the Secretary is, upon the whole, strongly inclined to the opinion, that a preference ought to be given to neither of the metals, for the money unit. Perhaps, if either were to be preferred, it ought to be gold rather than silver.

The reasons are these:

The inducement to such a preference is to render the unit as little variable as possible; because on this depends the steady value of all contracts, and, in a certain sense, of all other property. And, it is truly observed, that if the unit belong indiscriminately to both the metals, it is subject to all the fluctuations that happen in the relative value which they bear to each other. But the same reason would lead to annexing it to that particular one,

which is itself the least liable to variation, if there be, in this respect, any discernible difference between the two.

Gold may, perhaps, in certain senses, be said to have greater stability than silver: as, being of superior value, less liberties have been taken with it, in the regulations of different countries. Its standard has remained more uniform, and it has, in other respects, undergone fewer changes: as, being not so much an article of merchandise, owing to the use made of silver in the trade with the East Indies and China, it is less liable to be influenced by circumstances of commercial demand. And if, reasoning by analogy, it could be affirmed that there is a physical probability of greater proportional increase in the quantity of silver than in that of gold, it would afford an additional reason for calculating on greater steadiness in the value of the latter.

As long as gold, either from its intrinsic superiority as a metal, from its greater rarity, or from the prejudices of mankind, retains so considerable a preeminence in value over silver, as it has hitherto had, a natural consequence of this seems to be that its condition will be more stationary. The revolutions, therefore, which may take place in the comparative value of gold and silver, will be changes in the state of the latter, rather than in that of the former.

If there should be an appearance of too much abstraction in any of these ideas, it may be remarked, that the first and most simple impressions do not naturally incline to giving a preference to the inferior or less valuable of the two metals.

It is sometimes observed, that silver ought to be encouraged rather than gold, as being more conducive to the extension of bank circulation, from the greater difficulty and inconvenience which its greater bulk, compared with its value, occasions in the transportation of it. But bank circulation is desirable, rather as *an auxiliary to*, than as *a substitute for*, that of the precious metals, and ought to be left to its natural course. Artificial expedients to extend it, by opposing obstacles to the other, are, at least, not recommended by any very obvious advantages. And, in general, it is the safest rule to regulate every particular institution or object, according to the principles which, in relation to itself, appear the most sound. In addition to this, it may be observed, that the inconvenience of transporting either of the metals is sufficiently great to induce a preference of bank paper, whenever it can be made to answer the purpose equally well.

But, upon the whole, it seems to be most advisable, as has been observed, not to attach the unit exclusively to either of the metals; because this cannot be done effectually, without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise; which, accordingly, at different times, has been proposed from different and very respectable quarters; but which would, probably, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals; especially, if care be taken to regulate the proportion between them, with an eye to their average commercial value.

To annul the use of either of the metals as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation.

It is not a satisfactory answer to say, that none but the favored metal would, in this case, find its way into the country, as in that all balances must be paid. The practicability of this would, in some measure, depend on the abundance or scarcity of it in the country paying. Where there was but little, it either would not be procurable at all, or it would cost a premium to obtain it; which, in every case of a competition with others, in a branch of trade, would constitute a deduction from the profits of the party receiving. Perhaps, too, the embarrassments which such a circumstance might sometimes create, in the pecuniary liquidation of balances, might lead to additional efforts to find a substitute in commodities, and might so far impede the introduction of the metals. Neither could the exclusion of either of them be deemed, in other respects, favorable to commerce. It is often, in the course of trade, as desirable to possess the kind of money, as the kind of commodities, best adapted to a foreign market.

It seems, however, most probable, that the chief, if not the sole effect of such a regulation would be to diminish the utility of one of the metals. It could hardly prove an obstacle to the introduction of that which was excluded in the natural course of trade: because it would always command a ready sale, for the purpose of exportation to foreign mar-

kets. But such an effect, if the only one, is not to be regarded as a trivial inconvenience.

If, then, the unit ought not to be attached exclusively to either of the metals, the proportion which ought to subsist between them, in the coins, becomes a preliminary inquiry, in order to its proper adjustment. This proportion appears to be, in several views, of no inconsiderable moment.

One consequence of overvaluing either metal, in respect to the other, is the banishment of that which is undervalued. If two countries are supposed, in one of which the proportion of gold to silver is as 1 to 16, in the other as 1 to 15, gold being worth more, silver less, in one than in the other, it is manifest that, in their reciprocal payments, each will select that species which it values least, to pay to the other, where it is valued most. Besides this, the dealers in money will, from the same cause, often find a profitable traffic in an exchange of the metals between the two countries. And hence it would come to pass, if other things were equal, that the greatest part of the gold would be collected in one, and the greatest part of the silver in the other. The course of trade might, in some degree, counteract the tendency of the difference in the legal proportions, by the market value; but this is so far and so often influenced by the legal rates, that it does not prevent their producing the effect which is inferred. Facts, too, verify the inference: In Spain and England, where gold is rated higher than in other parts of Europe, there is a scarcity of silver; while it is found to abound in France and Holland, where it is

rated higher, in proportion to gold, than in the neighboring nations. And it is continually flowing from Europe to China and the East Indies, owing to the comparative cheapness of it in the former, and dearness of it in the latter.

This consequence is deemed by some not very material; and there are even persons who, from a fanciful predilection to gold, are willing to invite it, even by a higher price. But general utility will best be promoted by a due proportion of both metals. If gold be most convenient in large payments, silver is best adapted to the more minute and ordinary circulation.

But it is to be suspected that there is another consequence more serious than the one which has been mentioned. This is the diminution of the total quantity of specie which a country would naturally possess.

It is evident that, as often as a country, which over-rates either of the metals, receives a payment in that metal, it gets a less actual quantity than it ought to do, or than it would do, if the rate were a just one.

It is also equally evident that there will be a continual effort to make payment to it in that species to which it has annexed an exaggerated estimation, wherever it is current at a less proportional value. And it would seem to be a very natural effect of these two causes, not only that the mass of the precious metals in the country in question would consist chiefly of that kind to which it had given an extraordinary *value*, but that it would be absolutely less

than if they had been duly proportioned to each other.

A conclusion of this sort, however, is to be drawn with great caution. In such matters there are always some local and many other particular circumstances, which qualify and vary the operation of general principles, even where they are just; and there are endless combinations, very difficult to be analyzed, which often render principles, that have the most plausible pretensions, unsound and delusive.

There ought, for instance, according to those which have been stated, to have been formerly a greater quantity of gold in proportion to silver in the United States than there has been; because the actual value of gold in this country, compared with silver, was perhaps higher than in any other. But our situation with regard to the West Indian islands, into some of which there is a large influx of silver directly from the mines of South America, occasions an extraordinary supply of that metal, and consequently a greater proportion of it in our circulation than might have been expected from its relative value.

What influence the proportion under consideration may have upon the state of prices, and how far this may counteract its tendency to increase or lessen the quantity of the metals, are points not easy to be developed; and yet they are very necessary to an accurate judgment of the true operation of the thing.

But, however impossible it may be to pronounce

with certainty that the possession of a less quantity of specie is a consequence of overvaluing either of the metals, there is enough of probability in the considerations which seem to indicate it, to form an argument of weight against such overvaluation.

A third ill consequence resulting from it is a greater and more frequent disturbance of the state of the money unit by a greater and more frequent diversity between the legal and market proportions of the metals. This has not hitherto been experienced in the United States, but it has been experienced elsewhere; and from its not having been felt by us hitherto, it does not follow that this will not be the case hereafter, when our commerce shall have attained a maturity which will place it under the influence of more fixed principles.

In establishing a proportion between the metals, there seems to be an option of one of two things:

To approach, as nearly as can be ascertained, the mean or average proportion, in what may be called the commercial world; or,

To retain that which now exists in the United States.

As far as these happen to coincide, they will render the course to be pursued more plain and more certain.

To ascertain the first, with precision, would require better materials than are possessed, or than could be obtained, without an inconvenient delay.

Sir Isaac Newton, in a representation to the treasury of Great Britain, in the year 1717, after stating the particular proportions in the different

countries of Europe, concludes thus:—"By the course of trade and exchange between nation and nation, in all Europe, fine gold is to fine silver as 14 4/5 or 15 to 1."

But however accurate and decisive this authority may be deemed, in relation to the period to which it applies, it cannot be taken, at the distance of more than seventy years, as a rule for determining the existing proportion. Alterations have been since made, in the regulations of their coins, by several nations; which, as well as the course of trade, have an influence upon the market values. Nevertheless, there is reason to believe that the state of the matter, as represented by Sir Isaac Newton, is not very remote from its actual state.

In Holland, the greatest *money* market of Europe, gold was to silver, in December, 1789, as 1 to 14.88; and in that of London, it has been, for some time past, but little different, approaching, perhaps, something nearer 1 to 15.

It has been seen that the existing proportion between the two metals, in this country, is about as 1 to 15.

It is fortunate, in this respect, that the innovations of the Spanish mint have imperceptibly introduced a proportion so analogous, as this is, to that which prevails among the principal commercial nations, as it greatly facilitates a proper regulation of the matter.

This proportion of 1 to 15 is recommended by the particular situation of our trade, as being very nearly that which obtains in the market of Great

Britain, to which nation our specie is principally exported. A lower rate for either of the metals, in our market, than in hers, might not only afford a motive the more, in certain cases, to remit in specie rather than in commodities; but it might, in some others, cause us to pay a greater quantity of it for a given sum than we should otherwise do. If the effect should rather be to occasion a premium to be given for the metal which was underrated, this would obviate those disadvantages, but it would involve another—a customary difference between the market and legal proportions, which would amount to a species of disorder in the national coinage.

Looking forward to the payments of interest hereafter to be made to Holland, the same proportion does not appear ineligible. The present legal proportion in the coins of Holland is stated to be 1 to 14 9/10. That of the market varies somewhat, at different times, but seldom very widely, from this point.

There can hardly be a better rule, in any country, for the legal, than the market proportion, if this can be supposed to have been produced by the free and steady course of commercial principles. The presumption, in such case, is, that each metal finds its true level, according to its intrinsic utility in the general system of money operations.

But it must be admitted that this argument, in favor of continuing the existing proportion, is not applicable to the state of the coins with us. There have been too many artificial and heterogeneous ingredients, too much want of order in the pecuniary

transactions of this country, to authorize the attributing the effects which have appeared to the regular operations of commerce. A proof of this is to be drawn from the alterations which have happened in the proportion between the metals merely by the successive degradations of the dollar, in consequence of the mutability of a foreign mint. The value of gold to silver appears to have declined wholly from this cause, from 15 6/10 to about 15 to 1. Yet, as this last proportion, however produced, coincides so nearly with what may be deemed the commercial average, it may be supposed to furnish as good a rule as can be pursued.

The only question seems to be, whether the value of gold ought not to be a little lowered to bring it to a more exact level with the two markets which have been mentioned. But as the ratio of 1 to 15 is so nearly conformable to the state of those markets, and best agrees with that of our own, it will probably be found the most eligible. If the market of Spain continues to give a higher value to gold (as it has done in time past) than that which is recommended, there may be some advantage in a middle station.

A further preliminary to the adjustment of the future money unit, is, to determine what shall be the proportion and composition of alloy in each species of the coins.

The first, by the resolution of the 8th of August, 1786, before referred to, is regulated at one-twelfth, or, in other words, at 1 part alloy to 11 parts fine, whether gold or silver; which appears to be a convenient rule; unless there should be some collateral

consideration which may dictate a departure from it. Its correspondency, in regard to both metals, is a recommendation of it, because a difference could answer no purpose of pecuniary or commercial utility, and uniformity is favorable to order.

This ratio, as it regards gold, coincides with the proportion, real or professed, in the coins of Portugal, England, France, and Spain. In those of the two former, it is real; in those of the two latter, there is a deduction for what is called *remedy of weight and alloy*, which is in the nature of an allowance to the master of the mint for errors and imperfections in the process, rendering the coin either lighter or baser than it ought to be. The same thing is known in the theory of the English mint, where 1/6 of a carat is allowed. But the difference seems to be, that *there*, it is merely an occasional indemnity within a certain limit, for real and unavoidable errors and imperfections; whereas, in the practice of the mints of France and Spain, it appears to amount to a stated and regular deviation from the nominal standard. Accordingly, the real standards of France and Spain are something worse than 22 carats, or 11 parts in 12 fine.

The principal gold coins in Germany, Holland, Sweden, Denmark, Poland, and Italy, are finer than those of England and Portugal, in different degrees, from 1 carat and 1/4 to 1 carat and 7/8, which last is within 1/8 of a carat of pure gold.

There are similar diversities in the standards of the silver coins of the different countries of Europe. That of Great Britain is 222 parts fine, to 18 alloy;

those of the other European nations vary from that of Great Britain as widely as from about 17 of the same parts better, to 75 worse.

The principal reasons assigned for the use of alloy, are the saving of expense in the refining of the metals (which in their natural state are usually mixed with a portion of the coarser kinds), and the rendering of them harder as a security against too great waste by friction or wearing. The first reason, drawn from the original composition of the metals, is strengthened at present by the practice of alloying their coins, which has obtained among so many nations. The reality of the effect to which the last reason is applicable has been denied, and experience has been appealed to, as proving that the more alloyed coins wear faster than the purer. The true state of this matter may be worthy of future investigation, though first appearances are in favor of alloy. In the meantime, the saving of trouble and expense are sufficient inducements to following those examples which suppose its expediency. And the same considerations lead to taking as our models those nations with whom we have most intercourse, and whose coins are most prevalent in our circulation. These are Spain, Portugal, England, and France. The relation which the proposed proportion bears to their gold coins has been explained. In respect to their silver coins, it will not be very remote from the mean of their several standards.

The component ingredients of the alloy in each metal will also require to be regulated. In silver, copper is the only kind in use, and it is doubtless the

only proper one. In gold, there is a mixture of silver and copper: In the English coins consisting of equal parts; in the coins of some other countries, varying from 1/3 to 2/3 silver.

The reason of this union of silver with copper is this: The silver counteracts the tendency of the copper to injure the color or beauty of the coin, by giving it too much redness, or rather a coppery hue, which a small quantity will produce; and the copper prevents the too great whiteness which silver alone would confer. It is apprehended, that there are considerations which may render it prudent to establish, by law, that the proportion of silver to copper, in the gold coins of the United States, shall not be more than 1/2, nor less than 1/3; vesting discretion in some proper place to regulate the matter within those limits, as experience in the execution may recommend.

A third point remains to be discussed, as a prerequisite to the determination of the money unit, which is, whether the expense of coining shall be defrayed by the public, or out of the material itself; or, as it is sometimes stated, whether coinage shall be free, or shall be subject to a duty or imposition? This forms, perhaps, one of the nicest questions in the doctrine of money.

The practice of different nations is dissimilar in this particular. In England, coinage is said to be entirely free; the mint price of the metals in bullion, being the same with the value of them in coin. In France, there is a duty, which has been, if it is not now, eight per cent. In Holland, there is a difference

between the mint price and the value in the coins, which has been computed at .96, or something less than one per cent. upon gold, at 1.48, or something less than one and a half per cent. upon silver. The resolution of the 8th of August, 1786, proceeds upon the idea of a deduction of a half per cent. from gold, and of two per cent. from silver, as an indemnification for the expense of coining. This is inferred from a report of the late Board of Treasury, upon which that resolution appears to have been founded.

Upon the supposition that the expense of coinage ought to be defrayed out of the metals, there are two ways in which it may be effected: one by a reduction of the quantity of fine gold and silver in the coins; the other, by establishing a difference between the value of those metals in the coins, and the mint price of them in bullion.

The first method appears to the Secretary inadmissible. He is unable to distinguish an operation of this sort, from that of raising the denomination of the coin—a measure which has been disapproved by the wisest men of the nations in which it has been practised, and condemned by the rest of the world. To declare that a less weight of gold or silver shall pass for the same sum which before represented a greater weight, or to ordain that the same weight shall pass for a greater sum, are things substantially of one nature. The consequence of either of them, if the change can be realized, is to degrade the money unit; obliging creditors to receive less than their just dues, and depreciating property of every kind. For it is manifest that every thing would, in this

case, be represented by a less quantity of gold and silver than before.

It is sometimes observed, on this head, that, though any article of property might, in fact, be represented by a less actual quantity of pure metal, it would nevertheless be represented by something of the same intrinsic value. Every fabric, it is remarked, is worth intrinsically the price of the raw material and the expense of fabrication; a truth not less applicable to a piece of coin than to a yard of cloth.

This position, well founded in itself, is here misapplied. It supposes that the coins now in circulation are to be considered as bullion, or, in other words, as raw material. But the fact is, that the adoption of them as money has caused them to become the fabric; it has invested them with the character and office of coins, and has given them a sanction and efficacy, equivalent to that of the stamp of the sovereign. The prices of all our commodities, at home and abroad, and of all foreign commodities in our markets, have found their level in conformity to this principle. The foreign coins may be *divested* of the privilege they have hitherto been permitted to enjoy, and may of course be *left* to find their value in the market as a raw material. But the quantity of gold and silver in the national coins, corresponding with a given sum, cannot be made less than heretofore, without disturbing the balance of intrinsic value, and making every acre of land, as well as every bushel of wheat, of less actual worth than in time past.

If the United States were isolated, and cut off

from all intercourse with the rest of mankind, this reasoning would not be equally conclusive. But it appears decisive, when considered with a view to the relations which commerce has created between us and other countries.

It is, however, not improbable that the effect meditated would be defeated by a rise of prices proportioned to the diminution of the intrinsic value of the coins. This might be looked for in every enlightened commercial country; but, perhaps, in none with greater certainty than in this, because, in none, are men less liable to be the dupes of sounds; in none, has authority so little resource for substituting names for things.

A general revolution in prices, though only nominally and in appearance, could not fail to distract the ideas of the community, and would be apt to breed discontents as well among all those who live on the income of their money as among the poorer classes of the people, to whom the necessaries of life would seem to have become dearer. In the confusion of such a state of things, ideas of value would not improbably adhere to the old coins, which, from that circumstance, instead of feeling the effect of the loss of their privilege as money, would, perhaps, bear a price in the market, relatively to the new ones, in exact proportion to weight. The frequency of the demand for the metals to pay foreign balances, would contribute to this effect.

Among the evils attendant on such an operation are these: creditors, both of the public and of individuals, would lose a part of their property; public

and private credit would receive a wound; the effective revenues of the government would be diminished. There is scarcely any point, in the economy of national affairs, of greater moment than the uniform preservation of the intrinsic value of the money unit. On this the security and steady value of property essentially depend.

The second method, therefore, of defraying the expense of the coinage out of the metals, is greatly to be preferred to the other. This is to let the same sum of money continue to represent in the new coins exactly the same quantity of gold and silver as it does in those now current; to allow at the mint such a price only for those metals as will admit of profit just sufficient to satisfy the expense of coinage; to abolish the legal currency of the foreign coins, both in public and private payments; and, of course, to leave the superior utility of the national coins for domestic purposes, to operate the difference of market value, which is necessary to induce the bringing of bullion to the mint. In this case all property and labor will still be represented by the same quantity of gold and silver as formerly; and the only change which will be wrought will consist in annexing the office of money exclusively to the national coins; consequently, withdrawing it from those of foreign countries, and suffering them to become, as they ought to be, mere articles of merchandise.

The arguments in favor of a regulation of this kind are:

First. That the want of it is a cause of extra expense. There being, then, no motive of individual

interest to distinguish between the national coins and bullion, they are, it is alleged, indiscriminately melted down for domestic manufactures, and exported for the purposes of foreign trade: and it is added that, when the coins become light by wearing, the same quantity of fine gold or silver bears a higher price in bullion than in the coins; in which state of things the melting down of the coins to be sold as bullion is attended with profit; and from both causes the expense of the mint, or, in other words, the expense of maintaining the specie capital of the nation, is materially augmented.

Secondly. That the existence of such a regulation promotes a favorable course of exchange, and benefits trade not only by that circumstance, but by obliging foreigners, in certain cases, to pay dearer for domestic commodities, and to sell their own cheaper.

As far as relates to the tendency of a free coinage to produce an increase of expense in the different ways that have been stated, the argument must be allowed to have foundation both in reason and in experience. It describes what has been exemplified in Great Britain.

The effect of giving an artificial value to bullion is not, at first sight, obvious; but it actually happened at the period immediately preceding the late reformation in the gold coin of the country just named. A pound troy in gold bullion, of standard fineness, was then from 19*s.* 6*d.* to 25*s.* sterling dearer than an equal weight of guineas, as delivered at the mint. The phenomenon is thus accounted for: The old

guineas were more than two per cent. lighter than their *standard weight*. This *weight*, therefore, in bullion, was truly worth two per cent. more than those guineas. It consequently had, in respect to them, a correspondent rise in the market.

And as guineas were then current by *tale*, the new ones, as they issued from the mint, were confounded in circulation with the old ones; and, by the association, were depreciated below the intrinsic value, in comparison with bullion. It became of course a profitable traffic to sell bullion for coin, to select the light pieces and re-issue them in currency, and to melt down the heavy ones and sell them again as bullion. This practice, besides other inconveniences, cost the government large sums in the renewal of the coins.

But the remainder of the argument stands upon ground far more questionable. It depends upon very numerous and very complex combinations, in which there is infinite latitude for fallacy and error.

The most plausible part of it is that which relates to the course of exchange. Experience in France has shown that the market price of bullion has been influenced by the mint difference between that and coin; sometimes to the full extent of the difference; and it would seem to be a clear inference that, whenever that difference materially exceeded the charges of remitting bullion from the country where it existed, to another in which coinage is free, exchange would be in favor of the former.

If, for instance, the balance of trade between France and England were at any time equal, their

merchants would naturally have reciprocal payments to make to an equal amount, which, as usual, would be liquidated by means of bills of exchange. If in this situation the difference between coin and bullion should be, in the market, as at the mint of France, eight per cent.; if, also, the charges of transporting money from France to England should not be above two per cent.; and if exchange should be at par, it is evident that a profit of six per cent. might be made, by sending bullion from France to England, and drawing bills for the amount. One hundred louis d'ors in coin would purchase the weight of one hundred and eight in bullion; one hundred of which, remitted to England, would suffice to pay a debt of an equal amount; and two being paid for the charges of insurance and transportation, there would remain six for the benefit of the person who should manage the negotiation. But as so large a profit could not fail to produce competition, the bills, in consequence of this, would decrease in price, till the profit was reduced to the *minimum* of an adequate recompense for the trouble and risk. And as the amount of one hundred louis d'ors in England might be afforded for ninety-six in France, with a profit of more than one and a half per cent., bills upon England might fall, in France, to four per cent. below par; one per cent. being a sufficient profit to the exchanger or broker for the management of the business.

But it is *admitted* that this advantage is lost when the balance of trade is against the nation which imposes the duty in question; because, by increasing

the demand for bullion, it brings this to a par with the coins; and it is to be *suspected* that, where commercial principles have their free scope, and are well understood, the market difference between the metals in coin and bullion will seldom approximate to that of the mint, if the latter be considerable. It must be not a little difficult to keep the money of the world, which can be employed to an equal purpose in the commerce of the world, in a state of degradation, in comparison with the money of a particular country.

This alone would seem sufficient to prevent it: Whenever the price of coin to bullion, in the market, materially exceeded the par of the metals, it would become an object to send the bullion abroad, if not to pay a foreign balance, to be invested in some other way, in foreign countries, where it bore a superior value; an operation by which immense fortunes might be amassed, if it were not that the exportation of the bullion would of itself restore the intrinsic par. But, as it would naturally have this effect, the advantage supposed would contain in itself the principle of its own destruction. As long, however, as the exportation of bullion could be made with profit, which is as long as exchange could remain below par, there would be a drain of the gold and silver of the country.

If any thing can maintain, for a length of time, a material difference between the value of the metals in coin and in bullion, it must be a constant and considerable balance of trade in favor of the country in which it is maintained. In one situated like the

United States, it would in all probability be a hopeless attempt. The frequent demand for gold and silver, to pay balances to foreigners, would tend powerfully to preserve the equilibrium of intrinsic value.

The prospect is, that it would occasion foreign coins to circulate by common consent, nearly at par with the national.

To say that, as far as the effect of lowering exchange is produced, though it be only occasional and momentary, there is a benefit the more thrown into the scale of public prosperity, is not satisfactory. It has been seen that it may be productive of one evil, the investment of a part of the national capital in foreign countries; which can hardly be beneficial but in a situation like that of the United Netherlands, where an immense capital, and a decrease of internal demand, render it necessary to find employment for money in the wants of other nations; and perhaps, on a close examination, other evils may be descried.

One allied to that which has been mentioned is this—taking France, for the sake of more concise illustration, as the scene: Whenever it happens that French louis d'ors are sent abroad, from whatever cause, if there be a considerable difference between coin and bullion in the market of France, it will constitute an advantageous traffic to send back these louis d'ors, and bring away bullion in lieu of them; upon all which exchanges France must sustain an actual loss of a part of its gold and silver.

Again, such a difference between coin and bullion may tend to counteract a favorable balance of trade.

Whenever a foreign merchant is the carrier of hi
own commodities to France for sale, he has a stron
inducement to bring back specie, instead of Frenc
commodities; because a return in the latter ma
afford no profit, may even be attended with loss; i
the former it will afford a certain profit. The sam
principle must be supposed to operate in the genera
course of remittances from France to other countrie
The principal question with a merchant naturally i
in what manner can I realize a given sum, with mos
advantage, where I wish to place it? And, in case
in which other commodities are not likely to produc
equal profit with bullion, it may be expected tha
this will be preferred; to which the greater certaint
attending the operation must be an additional in
citement. There can hardly be imagined a circum
stance less friendly to trade than the existence of a
extra inducement, arising from the possibility of
profitable speculation upon the articles themselve
to export from a country its gold and silver, rathe
than the products of its land and labor.

The other advantages supposed, of obliging foreign
ers to pay dearer for domestic commodities, and t
sell their own cheaper, are applied to a situatio
which includes a favorable balance of trade. It i
understood in this sense—the prices of domesti
commodities (such, at least, as are peculiar to th
country) remain attached to the denominations c
the coins. When a favorable balance of trad
realizes in the market the mint difference betwee
coin and bullion, foreigners, who must pay in th
latter, are obliged to give more of it for such com

modities than they otherwise would do. Again, the bullion, which is now obtained at a cheaper rate in the home market, will procure the same quantity of goods in the foreign market as before; which is said to render foreign commodities cheaper. In this reasoning, much fallacy is to be suspected. If it be true, that foreigners pay more for domestic commodities, it must be equally true that they get more for their own when they bring them themselves to the market. If peculiar or other domestic commodities adhere to the denominations of the coins, no reason occurs why foreign commodities of a like character should not do the same thing; and, in this case, the foreigner, though he receive only the same value in coin for his merchandise as formerly, can convert it into a greater quantity of bullion. Whence the nation is liable to lose more of its gold and silver than if their intrinsic value in relation to the coins were preserved. And whether the gain or the loss will, on the whole, preponderate, would appear to depend on the comparative proportion of active commerce of the one country with the other.

It is evident, also, that the nation must pay as much gold and silver as before, for the commodities which it procures *abroad;* and whether it obtains this gold and silver cheaper or not, turns upon the solution of the question just intimated, respecting the relative proportion of active commerce between the two countries.

Besides these considerations, it is admitted in the reasoning, that the advantages supposed, which depend on a favorable balance of trade, have a tendency

to affect that balance disadvantageously. Foreigners, it is allowed, will in this case seek some other vent for their commodities, and some other market where they can supply their wants at an easier rate. A tendency of this kind, if real, would be a sufficient objection to the regulation. Nothing which contributes to change a beneficial current of trade, can well compensate, by particular advantages, for so injurious an effect. It is far more easy to transfer trade from a less to a more favorable channel, than, when once transferred, to bring it back to its old one. Every source of artificial interruption to an advantageous current is, therefore, cautiously to be avoided.

It merits attention, that the able minister, who lately and so long presided over the finances of France, does not attribute to the duty on coinage in that country any particular advantages in relation to exchange and trade. Though he rather appears an advocate for it, it is on the sole ground of the revenue it affords, which he represents as in the nature of a very moderate duty on the general mass of exportation.

And it is not improbable that, to the singular felicity of situation of that kingdom, is to be attributed its not having been sensible of the evils which seem incident to the regulation. There is, perhaps, no part of Europe which has so little need of other countries as France. Comprehending a variety of soils and climates, an immense population, its agriculture in a state of mature improvement, it possesses within its own bosom most, if not all, the productions of the earth which any of its most fa-

vored neighbors can boast. The variety, abundance, and excellence of its wines constitute a peculiar advantage in its favor. Arts and manufactures are there also in a very advanced state; some of them, of considerable importance, in higher perfection than elsewhere. Its contiguity to Spain; the intimate nature of its connection with that country—a country with few fabrics of its own, consequently numerous wants, and the principal receptacle of the treasures of the New World:—these circumstances concur in securing to France so uniform and so considerable a balance of trade, as in a great measure to counteract the natural tendency of any errors which may exist in the system of her mint; and to render inferences from the operation of that system there, in reference to this country, more liable to mislead than to instruct. Nor ought it to pass unnoticed, that, with all these advantages, the Government of France has found it necessary, on some occasions, to employ very violent methods to compel the bringing of bullion to the mint,—a circumstance which affords a strong presumption of the inexpediency of the regulation, and of the impracticability of executing it in the United States.

This point has been the longer dwelt upon, not only because there is a diversity of opinion among speculative men concerning it, and a diversity in the practice of the most considerable commercial nations, but because the acts of our own government, under the Confederation, have not only admitted the expediency of defraying the expense of coinage out of the metals themselves, but upon this idea

have both made a deduction from the weight of the coins, and established a difference between their regulated value and the mint price of bullion, greater than would result from that deduction. This double operation in favor of a principle so questionable in itself, has made a more particular investigation of it a duty.

The intention, however, of the preceding remarks, is rather to show that the expectation of commercial advantages ought not to decide in favor of a duty on coinage, and that, if it should be adopted, it ought not to be in the form of a deduction from the intrinsic value of the coins, than absolutely to exclude the idea of any difference whatever between the value of the metals in coin and in bullion. It is not clearly discerned, that a small difference between the mint price of bullion and the regulated value of the coins would be pernicious, or that it might not even be advisable, in the first instance, by way of experiment, merely as a preventive to the melting down and exportation of the coins. This will, now, be somewhat more particularly considered.

The arguments for a coinage entirely free are, that it preserves the intrinsic value of the metals; that it makes the expense of fabrication a general instead of partial tax; and that it tends to promote the abundance of gold and silver, which, it is alleged, will flow to that place where they find the best price, from that place where they are in any degree undervalued.

The first consideration has not much weight, as an objection to a plan which, without diminishing the

quantity of metals in the coins, merely allows a less price for them in bullion at the national factory or mint. No rule of intrinsic value is violated, by considering the raw material as worth less than the fabric in proportion to the expense of fabrication. And by divesting foreign coins of the privilege of circulating as money, they become the raw material.

The second consideration has perhaps greater weight. But it may not amount to an objection, if it be the best method of preventing disorders in the coins, which it is, in a particular manner, the interest of those, on whom the tax would fall, to prevent. The practice of taking gold by weight, which has of late years obtained in Great Britain, has been found in some degree, a remedy; but this is inconvenient, and may, on that account, fall into disuse. Another circumstance has had a remedial operation. This is the delay of the mint. It appears to be the practice there, not to make payment for the bullion which is brought to be exchanged for coin, till it either has in fact, or is pretended to have, undergone the process of recoining.

The necessity of fulfilling prior engagements is a cause or pretext for postponing the delivery of the coin in lieu of the bullion. And this delay creates a difference in the market price of the two things. Accordingly, for some years past, an ounce of standard gold, which is worth in coin £3 17*s.* 10½*d.* sterling, has been in the market of London, in bullion, only £3. 17*s.* 6*d.*, which is within a small fraction of one half per cent. less. Whether this be management in

the mint, to accommodate the bank in the purchase of bullion, or to effect indirectly something equivalent to a formal difference of price, or whether it be the natural course of the business, is open to conjecture.

It, at the same time, indicates that, if the mint were to make prompt payment, at about half per cent. less than it does at present, the state of bullion in respect to coin would be precisely the same as it now is. And it would be then certain, that the government would save expense in the coinage of gold; since it is not probable that the time actually lost in the course of the year, in converting bullion into coin, can be an equivalent to half per cent. on the advance, and there will generally be at the command of the treasury a considerable sum of money waiting for some periodical disbursement, which, without hazard, might be applied to that advance.

In what sense a free coinage can be said to promote the abundance of gold and silver, may be inferred from the instances which have been given of the tendency of a contrary system to promote their exportation. It is, however, not probable, that a very small difference of value between coin and bullion can have any effect which ought to enter into calculation. There can be no inducement of positive profit, to export the bullion, as long as the difference of price is exceeded by the expense of transportation. And the prospect of smaller loss upon the metals than upon commodities, when the difference is very minute, will be frequently overbalanced by the possibility of doing better with the latter, from a rise of

markets. It is, at any rate, certain, that it can be of no consequence in this view, whether the superiority of coin to bullion in the market be produced, as in England, by the delay of the mint, or by a formal discrimination in the regulated values.

Under an impression that a *small* difference between the value of the coin and the mint price of bullion is the least exceptionable expedient for restraining the melting down or exportation of the former, and not perceiving that, if it be a very moderate one, it can be hurtful in other respects, the Secretary is inclined to an experiment of one half per cent. on each of the metals. The fact which has been mentioned, with regard to the price of gold bullion in the English market, seems to demonstrate that such a difference may safely be made. In this case there must be immediate payment for the gold and silver offered to the mint. How far one half per cent. will go towards defraying the expense of the coinage, cannot be determined beforehand with accuracy. It is presumed that, on an economical plan, it will suffice in relation to gold. But it is not expected that the same rate on silver will be sufficient to defray the expense attending that metal. Some additional provision may, therefore, be found necessary, if this limit be adopted.

It does not seem to be advisable to make any greater difference in regard to silver than to gold; because it is desirable that the proportion between the two metals in the market should correspond with that in the coins, which would not be the case if the mint price of one was comparatively lower than that

of the other; and because, also, silver being proposed to be rated in respect to gold, somewhat below its general commercial value, if there should be a disparity to its disadvantage in the mint prices of the two metals, it would obstruct too much the bringing of it to be coined, and would add an inducement to export it. Nor does it appear to the Secretary safe to make a greater difference between the value of coin and bullion, than has been mentioned. It will be better to have to increase it, hereafter, if this shall be found expedient, than to have to recede from too considerable a difference, in consequence of evils which shall have been experienced.

It is sometimes mentioned, as an expedient which, consistently with a free coinage, may serve to prevent the evils desired to be avoided, to incorporate in the coins a greater proportion of alloy than is usual; regulating their value. nevertheless, according to the quantity of pure metal they contain. This, it is supposed, by adding to the difficulty of refining them, would cause bullion to be preferred, both for manufacture and exportation.

But strong objections lie against this scheme—an augmentation of expense; an actual depreciation of the coin; a danger of still greater depreciation in the public opinion; the facilitating of counterfeits; while it is questionable whether it would have the effect expected from it.

The alloy being esteemed of no value, an increase of it is evidently an increase of expense. This, in relation to the gold coins, particularly, is a matter of moment. It has been noted, that the alloy in

them consists partly of silver. If, to avoid expense, the addition should be of copper only, this would spoil the appearance of the coin, and give it a base countenance. Its beauty would indeed be injured, though in a less degree, even if the usual proportions of silver and copper should be maintained in the increased quantity of alloy.

And however inconsiderable an additional expenditure of copper in the coinage of a year may be deemed, in a series of years it would become of consequence. In regulations which contemplate the lapse and operation of ages, a very small item of expense acquires importance.

The actual depreciation of the coin by an increase of alloy, results from the very circumstance which is the motive to it—the greater difficulty of refining. In England, it is customary for those concerned in manufactures of gold, to make a deduction in the price, of fourpence sterling per ounce of fine gold, for every carat which the mass containing it is below the legal standard. Taking this as a rule, an inferiority of a single carat, or one twenty-fourth part, in the gold coins of the United States, compared with the English standard, would cause the *same quantity* of pure gold in them to be worth nearly four-tenths per cent. less than in the coins of Great Britain. This circumstance would be likely, in process of time, to be felt in the market of the United States.

A still greater depreciation, in the public opinion, would be to be apprehended from the *apparent* debasement of the coin. The effects of imagination and

prejudice cannot safely be disregarded in any thing that relates to money. If the beauty of the coin be impaired, it may be found difficult to satisfy the generality of the community, that what appears worse is not really less valuable; and it is not altogether certain, that an impression of its being so, may not occasion an unnatural augmentation of prices.

Greater danger of imposition, by counterfeits, is also to be apprehended from the injury which will be done to the appearance of the coin. It is a just observation, that "the perfection of the coins is a great safeguard against counterfeits." And it is evident that the color, as well as the excellence of the workmanship, is an ingredient in that perfection. The intermixture of too much alloy, particularly of copper, in the gold coins at least, must materially lessen the facility of distinguishing, by the eye, the purer from the baser kind—the genuine from the counterfeit.

The inefficacy of the arrangement to the purpose intended to be answered by it, is rendered probable by different considerations. If the standard of plate in the United States should be regulated according to that of the national coins, it is to be expected that the goldsmith would prefer these to the foreign coins, because he would find them prepared to his hand, in the state which he desires; whereas he would have to *expend* an additional quantity of alloy to bring the foreign coins to that state. If the standard of plate, by law or usage, should be superior to that of the national coins, there would be a

possibility of the foreign coins bearing a higher price in the market; and this would not only obstruct their being brought to the mint, but might occasion the exportation of the national coin in preference. It is not understood, that the practice of making an abatement of price for the inferiority of standard, is applicable to the English mint; and if it be not, this would also contribute to frustrating the expected effect from the increase of alloy. For, in this case, a given quantity of pure metal, in our standard, would be worth as much there as in bullion of the English or any other standard.

Considering, therefore, the uncertainty of the success of the expedient, and the inconveniences which seem incident to it, it would appear preferable to submit to those of a free coinage. It is observable that additional expense, which is one of the principal of these, is also applicable to the proposed remedy.

It is now proper to resume and finish the answer to the first question, in order to which the three succeeding ones have necessarily been anticipated. The conclusion to be drawn from the observations which have been made on the subject is this: That the unit, in the coins of the United States, ought to correspond with 24 grains and 3/4 of a grain of pure gold, and with 371 grains and 1/4 of a grain of pure silver, each answering to a dollar in the money of account. The former is exactly agreeable to the present value of gold, and the latter is within a small fraction of the mean of the two last emissions of dollars—the only ones which are now found in common

circulation, and of which the newest is in the greatest abundance; the alloy in each case to be one-twelfth of the total weight, which will make the unit 27 grains of standard gold, and 405 grains of standard silver.

Each of these, it has been remarked, will answer to a dollar in the money of account. It is conceived that nothing better can be done in relation to this than to pursue the track marked out by the resolution of the 8th August, 1786. This has been approved abroad, as well as at home, and it is certain that nothing can be more simple and convenient than the decimal subdivisions. There is every reason to expect that the method will speedily grow into general use, when it shall be seconded by corresponding coins. On this plan the unit in the money of account will continue to be, as established by that resolution, a dollar; and its multiples, dimes, cents, and mills, or tenths, hundredths, and thousandths.

With regard to the number of different pieces which shall compose the coins of the United States, two things are to be consulted—convenience of circulation, and cheapness of the coinage. The first ought not to be sacrificed to the last; but as far as they can be reconciled to each other, it is desirable to do it. Numerous and small (if not too minute) subdivisions assist circulation; but the multiplication of the smaller kinds increases expense; the same process being necessary to a small as to a large piece.

As it is easy to add, it will be most advisable to begin with a small number, till experience shall decide whether any other kinds are necessary. The

following, it is conceived, will be sufficient in the commencement:

One gold piece, equal in weight and value to ten units, or dollars.

One gold piece, equal to a tenth part of the former, and which shall be a unit, or dollar.

One silver piece, which shall also be a unit, or dollar.

One silver piece, which shall be, in weight and value, a tenth part of the silver unit, or dollar.

One copper piece, which shall be of the value of a hundredth part of a dollar.

One other copper piece, which shall be half the value of the former.

It is not proposed that the lighter piece of the two gold coins should be numerous, as, in large payments, the larger the pieces the shorter the process of counting, the less risk of mistake, and, consequently, the greater the safety and the convenience; and, in small payments it is not perceived that any inconvenience can accrue from an entire dependence on the silver and copper coins. The chief inducement to the establishment of the small gold piece is to have a sensible object in that metal, as well as in silver, to express the unit. Fifty thousand at a time in circulation may suffice for this purpose.

The tenth part of a dollar is but a small piece, and, with the aid of the copper coins, will probably suffice for all the more minute uses of circulation. It is less than the least of the silver coins now in general currency in England.

The large copper piece will nearly answer to the

halfpenny sterling, and the smaller, of course, to the farthing. Pieces of very small value are a great accommodation, and the means of a beneficial economy to the poor, by enabling them to purchase, in small portions, and at a more reasonable rate, the necessaries of which they stand in need. If there are only cents, the lowest price for any portion of a vendible commodity, however inconsiderable in quantity, will be a cent; if there are half cents, it will be a half cent; and, in a great number of cases, exactly the same things will be sold for a half cent, which, if there were none, would cost a cent. But a half cent is low enough for the *minimum* of price. Excessive minuteness would defeat its object. To enable the poorer classes to procure necessaries cheap is to enable them, with more comfort to themselves, to labor for less; the advantages of which need no comment.

The denominations of the silver coins contained in the resolution of the 8th of August, 1786, are conceived to be significant and proper. The dollar is recommended by its correspondency with the present coin of that name for which it is designed to be a substitute, which will facilitate its ready adoption as such, in the minds of the citizens. The dime, or tenth, the cent, or hundredth, the mill, or thousandth, are proper, because they express the proportions which they are intended to designate. It is only to be regretted that the meaning of these terms will not be familiar to those who are not acquainted with the language from which they are borrowed. It were to be wished that the length, and, in some de-

gree, the clumsiness of some of the corresponding terms in English, did not discourage from preferring them. It is useful to have names which signify the things to which they belong; and, in respect to objects of general use, in a manner intelligent to all. Perhaps it might be an improvement to let the dollar have the appellation either of dollar or unit (which latter will be the more significant), and to substitute "tenth" for dime. In time the unit may succeed to the dollar. The word cent being in use in various transactions and instruments, will, without much difficulty, be understood as the hundredth, and the half cent, of course, as the two-hundredth part.

The eagle is not a very expressive or apt appellation for the larger gold piece, but nothing better occurs. The smaller of the two gold coins may be called the dollar, or unit, in common with the silver piece with which it coincides.

The volume or size of each piece is a matter of more consequence than its denomination. It is evident, that the more superficies, or surface, the more the piece will be liable to be injured by friction, or in other words, the faster it will wear. For this reason it is desirable to render the thickness as great, in proportion to the breadth, as may consist with neatness and good appearance. Hence, the form of the double guinea, or double louis d'or, is preferable to that of the half johannes, for the large gold piece. The small one cannot well be of any other size than the Portuguese piece of eight, of the same metal.

As it is of consequence to fortify the idea of the identity of the dollar, it may be best to let the form

and size of the new one, as far as the quantity of matter (the alloy being less) permits, agree with the form and size of the present. The diameter may be the same.

The tenths may be in a mean between the Spanish 1/8 and 1/6 of a dollar.

The copper coins may be formed, merely with a view to good appearance, as any difference in the wearing that can result from difference of form, can be of little consequence in reference to that metal.

It is conceived that the weight of the cent may be eleven pennyweights, which will about correspond with the value of the copper and the expense of coinage. This will be to conform to the rule of intrinsic value, as far as regard to the convenient size of the coins will permit; and the deduction of the expense of the coinage in this case will be the more proper, as the copper coins, which have been current hitherto, have passed, till lately, for much more than their intrinsic value. Taking the weight, as has been suggested, the size of the cent may be nearly that of the piece herewith transmitted, which weighs 10 dwt. 11 grs. 10 m. Two thirds of the diameter of the cent will suffice for the diameter of the half cent.

It may, perhaps, be thought expedient, according to general practice, to make the copper coinage an object of profit, but, where this is done to any considerable extent, it is hardly possible to have effectual security against counterfeits. This consideration, concurring with the soundness of the principle of preserving the intrinsic value of the money of a

country, seems to outweigh the consideration of profit.

The foregoing suggestions respecting the sizes of the several coins, are made on the supposition that the Legislature may think fit to regulate this matter. Perhaps, however, it may be judged not unadvisable to leave it to Executive discretion.

With regard to the proposed size of the cent, it is to be confessed, that it is rather greater than might be wished, if it could, with propriety and safety, be made less; and should the value of copper continue to decline, as it has done for some time past, it is very questionable whether it will long remain alone a fit metal for money. This has led to a consideration of the expediency of uniting a small proportion of silver with the copper, in order to be able to lessen the bulk of the inferior coins. For this there are precedents in several parts of Europe. In France, the composition which is called billon, has consisted of one part silver and four parts copper; according to which proportion, a cent might contain seventeen grains, defraying out of the material the expense of coinage. The conveniency of size is a recommendation of such a species of coin, but the Secretary is deterred from proposing it, by the apprehension of counterfeits. The effect of so small a quantity of silver, in, comparatively, so large a quantity of copper, could easily be imitated, by a mixture of other metals of little value, and the temptation to doing it would not be inconsiderable.

The devices of the coins are far from being matters of indifference, as they may be made the vehicles of

useful impressions. They ought, therefore, to be emblematical, but without losing sight of simplicity. The fewer sharp points and angles there are, the less will be the loss by wearing. The Secretary thinks it best, on this head, to confine himself to these concise and general remarks.

The last point to be discussed respects the currency of foreign coins.

The abolition of this, in proper season, is a necessary part of the system contemplated for the national coinage. But this it will be expedient to defer, till some considerable progress has been made in preparing substitutes for them. A gradation may, therefore, be found most convenient.

The foreign coins may be suffered to circulate, precisely upon their present footing, for one year after the mint shall have commenced its operations. The privilege may then be continued for another year, to the gold coins of Portugal, England, and France, and to the silver coins of Spain. And these may still be permitted to be current for one year more, at the rates allowed to be given for them at the mint; after the expiration of which the circulation of all foreign coins to cease.

The moneys which will be paid into the treasury during the first year, being re-coined before they are issued anew, will afford a partial substitute before any interruption is given to the pre-existing supplies of circulation. The revenues of the succeeding year, and the coins which will be brought to the mint in consequence of the discontinuance of their currency, will materially extend the substitute in

the course of that year, and its extension will be so far increased during the third year by the facility of procuring the remaining species to be re-coined, which will arise from the diminution of their current values, as probably to enable the dispensing wholly with the circulation of foreign coins after that period. The progress which the currency of bank bills will be likely to have made, during the same time, will also afford a substitute of another kind.

This arrangement, besides avoiding a sudden stagnation of circulation, will cause a considerable proportion of whatever loss may be incident to the establishment in the first instance to fall, as it ought to do, upon the government, and will probably tend to distribute the remainder of it more equally among the community.

It may, nevertheless, be advisable, in addition to the precautions here suggested, to repose a discretionary authority in the President of the United States, to continue the currency of the Spanish dollar, at a value corresponding with the quantity of fine silver contained in it, beyond the period above mentioned for the cessation of the circulation of the foreign coins. It is possible that an exception in favor of this particular species of coin may be found expedient, and it may tend to obviate inconveniences, if there be a power to make the exception, in a capacity to be exerted, when the period shall arrive.

The Secretary for the Department of State, in his report to the House of Representatives, on the subject of establishing a uniformity in the weights, measures, and coins, of the United States, has proposed

that the weight of the dollar should correspond with the unit of weight. This was done on the supposition that it would require but a very small addition to the quantity of metal which the dollar, independently of the object he had in view, ought to contain, in which he was guided by the resolution of the 8th of August, 1786, fixing the dollar at 375 grains and 64 hundredths of a grain.

Taking this as the proper standard of the dollar, a small alteration, for the sake of incorporating so systematic an idea, would appear desirable. But, if the principles which have been reasoned from, in this report, are just, the execution of that idea becomes more difficult. It would, certainly, not be advisable to make, on that account, so considerable a change in the money unit, as would be produced by the addition of five grains of silver to the proper weight of the dollar, without a proportional augmentation of its relative value, and, to make such an augmentation, would be to abandon the advantage of preserving the identity of the dollar, or, to speak more accurately, of having the proposed one received and considered as a mere substitute for the present.

The end may, however, be obtained, without either of those inconveniences, by increasing the proportion of alloy in the silver coins. But this would destroy the uniformity, in that respect, between the gold and silver coins. It remains, therefore, to elect which of the two systematic ideas shall be pursued or relinquished; and it may be remarked, that it will be more easy to convert the present silver coins into the proposed ones, if these

last have the same, or nearly the same, proportion of alloy, than if they have less.

The organization of the mint yet remains to be considered.

This relates to the persons to be employed, and to the services which they are respectively to perform. It is conceived that there ought to be:

A director of the mint, to have the general superintendence of the business.

An assay master, or assayer, to receive the metals brought to the mint, ascertain their fineness, and deliver them to be coined.

A master coiner, to conduct the making of the coins.

A cashier, to receive and pay them out.

An auditor, to keep and adjust the accounts of the mint.

Clerks, as many as the director of the mint shall deem necessary, to assist the different officers.

Workmen, as many as may be found requisite.

A porter.

In several of the European mints there are various other officers, but the foregoing are those, only, who appear to be indispensable. Persons in the capacity of clerks will suffice instead of the others, with the advantage of greater economy.

The number of workmen is left indefinite, because at certain times it is requisite to have more than at others. They will, however, never be numerous. The expense of the establishment, in an ordinary year, will probably be from fifteen to twenty thousand dollars.

The remedy for errors in the weight and alloy of the coins must necessarily form a part in the system of a mint; and the manner of applying it will require to be regulated. The following account is given of the practice in England, in this particular.

A certain number of pieces are taken promiscuously out of every fifteen pounds of gold coined at the mint, which are deposited, for safe-keeping, in a strong box, called the pix. This box, from time to time, is opened in the presence of the lord chancellor, the officers of the treasury, and others, and portions are selected from the pieces of each coinage, which are melted together, and the mass assayed by a jury of the company of goldsmiths. If the imperfection and deficiency, both in fineness and weight, fall short of a sixth of a carat, or 40 grains of pure gold, upon a pound of standard, the master of the mint is held excusable, because it is supposed, that no workman can reasonably be answerable for greater exactness. The expediency of some similar regulation seems to be manifest.

All of which is humbly submitted.

ALEXANDER HAMILTON,
Secretary of the Treasury.

HAMILTON TO JEFFERSON

TREASURY DEPARTMENT, June 21, 1791.

SIR:

It has occurred to me that it would be productive of very useful information, if some officer of the United States, in each foreign country where there

is one, were instructed to transmit occasionally a state of the coins of the country, specifying their respective standards, weights, and values; and, periodically, a state of the market prices of gold and silver in coin and bullion, and of the rates of foreign exchange; and of the rates of the different kinds of labor, as well that employed in manufactures and in tillage.

I would beg leave to request, if there appears to you no inconvenience in the thing, that an instruction may be sent for the above purpose, and that copies of the statements which shall from time to time be received in consequence of it may be furnished to the treasury.

HAMILTON TO WASHINGTON

TREASURY DEPARTMENT, January 31, 1795.

SIR:

Previous to the leaving my present office, there are a few points which I think it my duty to bring under the consideration of the President.

The first regards the present state and arrangement of the mint.

It is certain that this establishment is capable of producing very important benefits to the community. At this moment, when an unusually large and sudden exportation of silver has produced a very inconvenient scarcity of that species of money, the full activity of the mint would be of primary utility. Large quantities of silver lie in the banks

and other places in ingots, which, if turned into coin, would be of the greatest advantage to trade, and to all pecuniary operations, public and private.

Hitherto the mint has comparatively done nothing. This is matter both of surprise and complaint with all that part of the community whose dissatisfactions are the less known, because they are not lightly promulgated. The institution itself, by not fulfilling the public expectation, grows into discredit, and those who have had the principal agency in its establishment are wounded by a growing disrepute, which is attributable truly to an insufficient execution. The President probably knows better than I do what have been the causes of the deficiency. They may afford a justification; but, uninformed as I am, I cannot help thinking that, with due exertion, the business of the mint might have been far more matured, and its present powers of action far greater than they are. And I am led to fear that as long as it continues under its present management the public expectation will be disappointed. The director, though a most respectable and excellent man, can hardly be expected, on several accounts, to give that close and undivided attention to it which in its first stages is indispensable.

There is another point in relation to the same subject, on which I should have been silent as long as I could have been supposed to have any personal motive to influence my opinion. But now that this is at an end, I yield without hesitation to my convictions of the public interest, in presenting with the greatest deference those convictions to the considera-

tion of the President. They amount to this, that the mint establishment will be most advantageously for the service of the United States placed under the superintendence of the Department of the Treasury.

It is obvious that that establishment forms a most material link in the money system of the country. This system, as it regards public operations, is in the management of the Department of the Treasury. It follows that, in the theory of the case, there is an intimate relation between this department and that establishment.

The law constituting the mint also establishes some relations between them.

The fifth section refers to the judgment of the Secretary of the Treasury the competency of the sureties to be given by the officers of the mint.

The fourteenth section, providing for the exchange of the bullion for money, with the deduction of one-half per cent., toward defraying the expenses of the mint, makes it the duty of the Secretary of the Treasury to furnish the mint from time to time, whenever the state of the treasury will admit of it, with such sums as may be necessary for effecting those exchanges. To engage the Secretary to dispossess the treasury with confidence of large sums for such exchanges, it is necessary that he should be very certain of their regular and punctual return. The assurance of this would be not a little strengthened by that intimate knowledge of situation which would result from the duty of superintending. The efficient operation of this provision is of no small consequence to the economy of the establishment.

Hitherto its situation has been such as to preclude absolutely the effect of it.

Moreover, the Secretary of the Treasury, called daily and habitually to observe the progress of money transactions, awake to everything which can affect them well or ill, because the credit of his department depends upon it, must be more likely than any other officer to feel a due sensibility to the efficient and proper course of the mint, and consequently to exert himself to give it such a course.

The Post Office, on the other hand, if the idea which has repeatedly appeared in Congress be adhered to, that of rendering it an instrument of the improvement of the public roads instead of a means of revenue, may without inconvenience be placed under the Department of State, while the mint establishment is transferred to the Treasury.

These observations proceed on the supposition that the President has adopted in principle and practice the plan of distributing all the particular branches of the public service, except that of the law, among the three great departments; a plan which is believed to be founded on good reasons.

Another point, to which I would invite the attention of the President, is the scheme of mounted volunteers, as established in the law, and as it has operated in practice.

The expense of it is enormous, and, from the nature of the thing, has a tendency to continue so. Though the compensation of a dollar per man is not fixed absolutely, but as a limit not to be exceeded, the effect is, that extent of the sum is *expected*, and

that from this expectation the men could not probably be obtained for less. The Executive, too, in an emergent service, will never be willing to incur the responsibility of failing by a restriction of the sum, and thus the ultimatum becomes the ordinary rule.

It will be happy if a revision of the measures for defensive protection should issue in a conviction that the number of volunteer horse can be reduced by a substitution of infantry. It is imagined that on calculation it would appear that a more than proportional increase of infantry would cost less.

In the last place, I beg leave to submit an impression that advantages would accrue, in the view of economy at least, if the agents for Indian affairs, in the southwestern and northwestern territories, were distinct from the governors. These might still retain the political direction of affairs, and there would result a check in the business of supplies.

INDUSTRY AND COMMERCE

INDUSTRY AND COMMERCE

FISHERIES

HAMILTON TO GOODHUE

October 29, 1790.

DEAR SIR:

As the subject of the enclosed letter is of consequence to the Whale Fishery, I send it to you to read, and will be glad to converse with you about it to-morrow. Your obedient servant,

A. H.

October 29, 1790.

MY DEAR SIR:

I am duly favored with your letter of the eighteenth instant, and receive the observations you have been so obliging as to make, not only with candor but with thanks, as a mark of your friendship and confidence.

I am far from relying so much upon my own judgment as not to think it very possible that I may have been mistaken in both the constructions on which you remark. Indeed I see abundant room for adopting opposite ones, and did not, till after mature reflection, conclude on those which had been announced, and not then entirely, without hesitation.

The reasoning which prevailed in my mind in each case was of this nature:

First, as to the bounty.

The original and express object of the allowance was by way of compensation for the duties on salt.

The declared motive of the suspension was, that there was salt within the United States on which no such duties had been paid.

The equity of the suspending clause, which is, that there ought to be no compensation where there is no consideration, and the general intent of the Legislature, which was, that there should be no compensation where there had been no such consideration, were therefore both manifestly against the allowance of the bounty on the articles shipped between the passing of the first act and the passing of the second. And though the letter of the suspending clause is *future*, yet its reason being retrospective, and the actual making of the allowance for articles already shipped being future also, I thought it admissible so to construe the law as to arrest this allowance, in that sense future, in conformity to the real justice of the case and the main design of the Legislature. In a circumstance in which the equity was palpable, and the law doubtful, I thought it my duty as an executive servant of the government not to let the public money be parted with on a mere point of construction, till that construction should be judicially established. This resource will be open to any individual who will choose to pursue it, by an action against the collector of the port from which the articles were shipped.

Secondly, as to the discount for prompt payment. The words "prompt payment" are, in my apprehension, synonymous with immediate payment, or payment down. The most obvious import of the clause in question seems, therefore, to be this: when the amount of the duties exceeds fifty dollars, time shall be given for payment upon proper bond security; but if the party prefers making immediate payment, on paying the money down he shall have an allowance of ten per cent., on all above fifty dollars, for doing it. The confining the discount to the excess illustrates the meaning of the provision, and shows that payment in the first instance was contemplated; for if it had been intended that the discount might be made at any time before the bonds became due, it would be difficult to imagine why it should not extend to the fifty dollars, as well as to the excess.

I was the more inclined to this construction, because I supposed the contrary one was of a nature to be rendered more beneficial to any collector who might choose to avail himself of it than to the public. And in general, I doubt much that it is the interest of the public to make such a discount, as they now borrow at less in its operation than six per cent.; on which account I felt no inclination to extend the discount.

Thus have I, my dear sir, freely explained to you the motives by which I have been governed in the instances in question, and I shall be happy that they may appear to you satisfactory. I am sure, at least, that you will view the intention favorably;

and I beg you to be assured of the friendship and esteem with which I am, etc.

MANUFACTURES

Communicated to the House of Representatives, December 5, 1791.

The Secretary of the Treasury, in obedience to the order of the House of Representatives, of the 15th day of January, 1790, has applied his attention, at as early a period as his other duties would permit, to the subject of Manufactures, and particularly to the means of promoting such as will tend to render the United States independent on foreign nations for military and other essential supplies; and he thereupon respectfully submits the following report:

The expediency of encouraging manufactures in the United States, which was not long since deemed very questionable, appears at this time to be pretty generally admitted. The embarrassments which have obstructed the progress of our external trade, have led to serious reflections on the necessity of enlarging the sphere of our domestic commerce. The restrictive regulations, which, in foreign markets, abridge the vent of the increasing surplus of our agricultural produce, serve to beget an earnest desire that a more extensive demand for that surplus may be created at home; and the complete success which has rewarded manufacturing enterprise in some valuable branches, conspiring with the promising symptoms which attend some less mature essays in others, justify a hope that the obstacles to the growth of this

species of industry are less formidable than they were apprehended to be, and that it is not difficult to find, in its further extension, a full indemnification for any external disadvantages, which are or may be experienced, as well as an accession of resources, favorable to national independence and safety.

There are still, nevertheless, respectable patrons of opinions unfriendly to the encouragement of manufactures. The following are, substantially, the arguments by which these opinions are defended:

"In every country (say those who entertain them) agriculture is the most beneficial and productive object of human industry. This position, generally if not universally true, applies with peculiar emphasis to the United States, on account of their immense tracts of fertile territory, uninhabited and unimproved. Nothing can afford so advantageous an employment for capital and labor, as the conversion of this extensive wilderness into cultivated farms. Nothing, equally with this, can contribute to the population, strength, and real riches of the country.

"To endeavor, by the extraordinary patronage of government, to accelerate the growth of manufactures, is, in fact, to endeavor, by force and art, to transfer the natural current of industry from a more to a less beneficial channel. Whatever has such a tendency, must necessarily be unwise; indeed, it can hardly ever be wise in a government to attempt to give a direction to the industry of its citizens. This, under the quick-sighted guidance of private interest, will, if left to itself, infallibly find its own way to the most profitable employment; and it is by such em-

ployment, that the public prosperity will be most effectually promoted. To leave industry to itself, therefore, is, in almost every case, the soundest as well as the simplest policy.

"This policy is not only recommended to the United States, by considerations which affect all nations; it is, in a manner, dictated to them by the imperious force of a very peculiar situation. The smallness of their population compared with their territory; the constant allurements to emigration from the settled to the unsettled parts of the country; the facility with which the less independent condition of an artisan can be exchanged for the more independent condition of a farmer;—these, and similar causes, conspire to produce, and, for a length of time, must continue to occasion, a scarcity of hands for manufacturing occupation, and dearness of labor generally. To these disadvantages for the prosecution of manufactures, a deficiency of pecuniary capital being added, the prospect of a successful competition with the manufactures of Europe, must be regarded as little less than desperate. Extensive manufactures can only be the offspring of a redundant, at least of a full, population. Till the latter shall characterize the situation of this country, 't is vain to hope for the former.

"If, contrary to the natural course of things, an unseasonable and premature spring can be given to certain fabrics, by heavy duties, prohibitions, bounties, or by other forced expedients, this will only be to sacrifice the interests of the community to those of particular classes. Besides the misdirection of

labor, a virtual monopoly will be given to the persons employed on such fabrics; and an enhancement of price, the inevitable consequence of every monopoly, must be defrayed at the expense of the other parts of society. It is far preferable, that those persons should be engaged in the cultivation of the earth, and that we should procure, in exchange for its productions, the commodities with which foreigners are able to supply us in greater perfection and upon better terms."

This mode of reasoning is founded upon facts and principles which have certainly respectable pretensions. If it had governed the conduct of nations more generally than it has done, there is room to suppose that it might have carried them faster to prosperity and greatness than they have attained by the pursuit of maxims too widely opposite. Most general theories, however, admit of numerous exceptions, and there are few, if any, of the political kind, which do not blend a considerable portion of error with the truths they inculcate.

I. In order to an accurate judgment how far that which has been just stated ought to be deemed liable to a similar imputation, it is necessary to advert carefully to the considerations which plead in favor of manufactures, and which appear to recommend the special and positive encouragement of them in certain cases and under certain reasonable limitations.

It ought readily be conceded that the cultivation of the earth, as the primary and most certain source of national supply, as the immediate and chief

source of subsistence to a man, as the principal source of those materials which constitute the nutriment of other kinds of labor, as including a state most favorable to the freedom and independence of the human mind—one, perhaps, most conducive to the multiplication of the human species, has intrinsically a strong claim to pre-eminence over every other kind of industry.

But, that it has a title to any thing like an exclusive predilection, in any country, ought to be admitted with great caution; that it is even more productive than every other branch of industry, requires more evidence than has yet been given in support of the position. That its real interests, precious and important as, without the help of exaggeration, they truly are, will be advanced, rather than injured, by the due encouragement of manufactures, may, it is believed, be satisfactorily demonstrated. And it is also believed that the expediency of such encouragement, in a general view, may be shown to be recommended by the most cogent and persuasive motives of national policy.

It has been maintained that agriculture is not only the most productive, but the only productive, species of industry. The reality of this suggestion, in either respect, has, however, not been verified by any accurate detail of facts and calculations; and the general arguments which are adduced to prove it, are rather subtile and paradoxical, than solid or convincing.

Those which maintain its exclusive productiveness are to this effect:

Labor bestowed upon the cultivation of land pro-

duces enough not only to replace all the necessary expenses incurred in the business, and to maintain the persons who are employed in it, but to afford, together with the ordinary profit on the stock or capital of the farmer, a net surplus or rent for the landlord or proprietor of the soil. But the labor of artificers does nothing more than to replace the stock which employs them (or which furnishes materials, tools, and wages), and yields the ordinary profit upon that stock. It yields nothing equivalent to the rent of land; neither does it add any thing to the total value of the whole annual produce of the land and labor of the country. The additional value given to those parts of the produce of land which are wrought into manufactures, is counterbalanced by the value of those other parts of that produce which are consumed by the manufacturers. It can, therefore, only be by saving or parsimony, not by the positive productiveness of their labor, that the classes of artificers can, in any degree, augment the revenue of the society.

To this it has been answered:

1. "That, inasmuch as it is acknowledged that manufacturing labor re-produces a value equal to that which is expended or consumed in carrying it on, and continues in existence the original stock or capital employed, it ought, on that account, alone, to escape being considered as wholly unproductive. That, though it should be admitted, as alleged, that the consumption of the produce of the soil, by the classes of artificers or manufacturers, is exactly equal to the value added by their labor to the materials

upon which it is exerted, yet it would not thence follow that it added nothing to the revenue of the society, or to the aggregate value of the annual produce of its land and labor. If the consumption, for any given period, amounted to a given sum, and the increased value of the produce manufactured, in the same period, to a like sum, the total amount of the consumption and production, during that period, would be equal to the two sums, and consequently double the value of the agricultural produce consumed; and though the increment of value produced by the classes of artificers should, at no time, exceed the value of the produce of the land consumed by them, yet there would be, at every moment, in consequence of their labor, a greater value of goods in the market than would exist independent of it."

2. "That the position, that artificers can augment the revenue of a society only by parsimony, is true in no other sense than in one which is equally applicable to husbandmen or cultivators. It may be alike affirmed of all these classes, that the fund acquired by their labor, and destined for their support, is not, in an ordinary way, more than equal to it. And hence it will follow that augmentations of the wealth or capital of the community (except in the instances of some extraordinary dexterity or skill) can only proceed, with respect to any of them, from the savings of the more thrifty and parsimonious."

3. "That the annual produce of the land and labor of a country can only be increased in two ways —by some improvement in the productive powers of the useful labor which actually exists within it,

or by some increase in the quantity of such labor. That, with regard to the first, the labor of artificers being capable of greater subdivision and simplicity of operation than that of cultivators, it is susceptible, in a proportionably greater degree, of improvement in its productive powers, whether to be derived from an accession of skill or from the application of ingenious machinery; in which particular, therefore, the labor employed in the culture of land can pretend to no advantage over that engaged in manufactures. That, with regard to an augmentation of the quantity of useful labor, this, excluding adventitious circumstances, must depend essentially upon an increase of capital, which again must depend upon the savings made out of the revenues of those who furnish or manage that which is at any time employed, whether in agriculture or in manufactures, or in any other way."

But while the exclusive productiveness of agricultural labor has been denied and refuted, the superiority of its productiveness has been conceded without hesitation. As this concession involves a point of considerable magnitude, in relation to maxims of public administration, the grounds on which it rests are worthy of a distinct and particular examination.

One of the arguments made use of in support of the idea may be pronounced both quaint and superficial. It amounts to this: That, in the productions of the soil, nature co-operates with man; and that the effect of their joint labor must be greater than that of the labor of man alone.

This, however, is far from being a necessary inference. It is very conceivable that the labor of man alone, laid out upon a work requiring great skill and art to bring it to perfection, may be more productive, in value, than the labor of nature and man combined, when directed towards more simple operations and objects; and when it is recollected to what an extent the agency of nature, in the application of the mechanical powers, is made auxiliary to the prosecution of manufactures, the suggestion which has been noticed loses even the appearance of plausibility.

It might also be observed, with a contrary view, that the labor employed in agriculture is, in a great measure, periodical and occasional, depending on seasons, and liable to various and long intermissions; while that occupied in many manufactures is constant and regular, extending through the year, embracing, in some instances, night as well as day. It is also probable that there are, among the cultivators of land, more examples of remissness than among artificers. The farmer, from the peculiar fertility of his land, or some other favorable circumstance, may frequently obtain a livelihood, even with a considerable degree of carelessness in the mode of cultivation; but the artisan can with difficulty effect the same object, without exerting himself pretty equally with all those who are engaged in the same pursuit. And if it may likewise be assumed as a fact, that manufactures open a wider field to exertions of ingenuity than agriculture, it would not be a strained conjecture, that the labor employed in

the former, being at once more constant, more uniform, and more ingenious, than that which is employed in the latter, will be found, at the same time, more productive.

But it is not meant to lay stress on observations of this nature; they ought only to serve as a counterbalance to those of a similar complexion. Circumstances so vague and general, as well as so abstract, can afford little instruction in a matter of this kind.

Another, and that which seems to be the principal argument offered for the superior productiveness of agricultural labor, turns upon the allegation, that labor employed on manufactures yields nothing equivalent to the rent of land, or to that net surplus, as it is called, which accrues to the proprietor of the soil.

But this distinction, important as it has been deemed, appears rather verbal than substantial.

It is easily discernible, that what, in the first instance, is divided into two parts, under the denominations of the ordinary profit of the stock of the farmer and rent to the landlord, is, in the second instance united under the general appellation of the ordinary profit on the stock of the undertaker; and that this formal or verbal distribution constitutes the whole difference in the two cases. It seems to have been overlooked, that the land is itself a stock or capital, advanced or lent by its owner to the occupier or tenant, and that the rent he receives is only the ordinary profit of a certain stock in land, not managed by the proprietor himself, but by another, to whom he lends or lets it, and who, on his part, advances a second

capital, to stock and improve the land, upon which he also receives the usual profit. The rent of the landlord and the profit of the farmer are, therefore, nothing more than the ordinary profits of two capitals belonging to two different persons, and united in the cultivation of a farm; as, in the other case, the surplus which arises upon any manufactory, after replacing the expenses of carrying it on, answers to the ordinary profits of one or more capitals engaged in the prosecution of such manufactory. It is said one or more capitals, because, in fact, the same thing which is contemplated in the case of the farm, sometimes happens in that of a manufactory. There is one who furnishes a part of the capital or lends a part of the money by which it is carried on, and another who carries it on with the addition of his own capital. Out of the surplus which remains after defraying expenses, an interest is paid to the money-lender, for the portion of the capital furnished by him, which exactly agrees with the rent paid to the landlord; and the residue of that surplus constitutes the profit of the undertaker or manufacturer, and agrees with what is denominated the ordinary profits on the stock of the farmer. Both together make the ordinary profits of two capitals employed in a manufactory; as, in the other case, the rent of the landlord and the revenue of the farmer compose the ordinary profits of two capitals employed in the cultivation of a farm.

The rent, therefore, accruing to the proprietor of the land, far from being a criterion of exclusive productiveness, as has been argued, is no criterion even of superior productiveness. The question

must still be, whether the surplus, after defraying expenses, of a given capital, employed in the purchase and improvement of a piece of land, is greater or less than that of a like capital, employed in the prosecution of a manufactory; or whether the whole value produced from a given capital and a given quantity of labor, employed in one way, be greater or less than the whole value produced from an equal capital and an equal quantity of labor, employed in the other way; or rather, perhaps, whether the business of agriculture, or that of manufactures, will yield the greater product, according to a compound ratio of the quantity of the capital and the quantity of labor which are employed in the one or in the other.

The solution of either of these questions is not easy; it involves numerous and complicated details, depending on an accurate knowledge of the objects to be compared. It is not known that the comparison has ever yet been made upon sufficient data, properly ascertained and analyzed. To be able to make it, on the present occasion, with satisfactory precision, would demand more previous inquiry and investigation than there has been hitherto either leisure or opportunity to accomplish.

Some essays, however, have been made towards acquiring the requisite information, which have rather served to throw doubt upon, than to confirm, the hypothesis under examination. But it ought to be acknowledged that they have been too little diversified, and are too imperfect to authorize a definite conclusion either way; leading rather to prob-

able conjecture than to certain deduction. They render it probable that there are various branches of manufactures, in which a given capital will yield a greater total product, and a considerably greater net product, than an equal capital invested in the purchase and improvement of lands; and that there are also some branches, in which both the gross and the net product will exceed that of the agricultural industry, according to a compound ratio of capital and labor. But it is on this last point that there appears to be the greatest room for doubt. It is far less difficult to infer generally, that the net produce of capital engaged in manufacturing enterprises is greater than that of capital engaged in agriculture.

The foregoing suggestions are not designed to inculcate an opinion that manufacturing industry is more productive than that of agriculture. They are intended rather to show that the reverse of this proposition is not ascertained; that the general arguments which are brought to establish it are not satisfactory; and, consequently, that a supposition of the superior productiveness of tillage ought to be no obstacle to listening to any substantial inducements to the encouragement of manufactures, which may be otherwise perceived to exist, through an apprehension that they may have a tendency to divert labor from a more to a less profitable employment.

It is extremely probable that, on a full and accurate development of the matter, on the ground of fact and calculation, it would be discovered that there is no material difference between the aggre-

gate productiveness of the one and of the other kind of industry; and that the propriety of the encouragements which may, in any case, be proposed to be given to either, ought to be determined upon considerations irrelative to any comparison of that nature.

II. But, without contending for the superior productiveness of manufacturing industry, it may conduce to a better judgment of the policy which ought to be pursued respecting its encouragement, to contemplate the subject under some additional aspects, tending not only to confirm the idea that this kind of industry has been improperly represented as unproductive in itself, but to evince, in addition, that the (establishment and diffusion of manufactures have the effect of rendering the total mass of useful and productive labor, in a community, greater than it would otherwise be.) In prosecuting this discussion, it may be necessary briefly to resumé and review some of the topics which have been already touched.

To affirm that the labor of the manufacturer is unproductive, because he consumes as much of the produce of land as he adds value to the raw material which he manufactures, is not better founded than it would be to affirm that the labor of the farmer, which furnishes materials to the manufacturer, is unproductive, because he consumes an equal value of manufactured articles. Each furnishes a certain portion of the produce of his labor to the other, and each destroys a corresponding portion of the produce of the labor of the other. In the meantime, the

maintenance of two citizens, instead of one, is going on; the State has two members instead of one; and they, together, consume twice the value of what is produced from the land.

If, instead of a farmer and artificer, there were a farmer only, he would be under the necessity of devoting a part of his labor to the fabrication of clothing and other articles, which he would procure of the artificer, in the case of there being such a person; and of course he would be able to devote less labor to the cultivation of his farm, and would draw from it a proportionately less product. The whole quantity of production, in this state of things, in provisions, raw materials, and manufactures, would certainly not exceed in value the amount of what would be produced in provisions and raw materials only, if there were an artificer as well as a farmer.

Again, if there were both an artificer and a farmer, the latter would be left at liberty to pursue exclusively the cultivation of his farm. A greater quantity of provisions and raw materials would, of course, be produced, equal, at least, as has been already observed, to the whole amount of the provisions, raw materials, and manufactures, which would exist on a contrary supposition. The artificer, at the same time, would be going on in the production of manufactured commodities, to an amount sufficient, not only to repay the farmer, in those commodities, for the provisions and materials which were procured from him, but to furnish the artificer himself with a supply of similar commodities for his own use. Thus, then, there would be two

quantities or values in existence, instead of one; and the revenue and consumption would be double, in one case, what it would be in the other.

If, in place of both of these suppositions, there were supposed to be two farmers and no artificer, each of whom applied a part of his labor to the culture of land and another part to the fabrication of manufactures; in this case, the portion of the labor of both, bestowed upon land, would produce the same quantity of provisions and raw materials only, as would be produced by the entire sum of the labor of one, applied in the same manner; and the portion of the labor of both, bestowed upon manufactures, would produce the same quantity of manufactures only, as would be produced by the entire sum of the labor of one, applied in the same manner. Hence, the produce of the labor of the two farmers would not be greater than the produce of the labor of the farmer and artificer; and hence it results, that the labor of the artificer is as positively productive as that of the farmer, and as positively augments the revenue of the society.

The labor of the artificer replaces to the farmer that portion of his labor with which he provides the materials of exchange with the artificer, and which he would otherwise have been compelled to apply to manufactures; and while the artificer thus enables the farmer to enlarge his stock of agricultural industry, a portion of which he purchases for his own use, he also supplies himself with the manufactured articles of which he stands in need. He does still more. Besides this equivalent, which he gives for the portion of agricultural labor consumed by him,

and this supply of manufactured commodities for his own consumption, he furnishes still a surplus, which compensates for the use of the capital advanced, either by himself or some other person, for carrying on the business. This is the ordinary profit of the stock employed in the manufactory, and is, in every sense, as effective an addition to the income of the society as the rent of land.

The produce of the labor of the artificer, consequently, may be regarded as composed of three parts: one, by which the provisions for his subsistence and the materials for his work are purchased of the farmer; one, by which he supplies himself with manufactured necessaries; and a third, which constitutes the profit on the stock employed. The two last portions seem to have been overlooked in the system which represents manufacturing industry as barren and unproductive.

In the course of the preceding illustrations, the products of equal quantities of the labor of the farmer and artificer have been treated as if equal to each other. But this is not to be understood as intending to assert any such precise equality. It is merely a manner of expression, adopted for the sake of simplicity and perspicuity. Whether the value of the produce of the labor of the farmer be somewhat more or less than that of the artificer, is not material to the main scope of the argument, which, hitherto, has only aimed at showing that the one, as well as the other, occasions a positive augmentation of the total produce and revenue of the society.

It is now proper to proceed a step further, and to

enumerate the principal circumstances from which it may be inferred that manufacturing establishments not only occasion a positive augmentation of the produce and revenue of the society, but that they contribute essentially to rendering them greater than they could possibly be without such establishments. These circumstances are:

1. The division of labor.
2. An extension of the use of machinery.
3. Additional employment to classes of the community not ordinarily engaged in the business.
4. The promoting of emigration from foreign countries.
5. The furnishing greater scope for the diversity of talents and dispositions, which discriminate men from each other.
6. The affording a more ample and various field for enterprise.
7. The creating, in some instances, a new, and securing, in all, a more certain and steady demand for the surplus produce of the soil.

Each of these circumstances has a considerable influence upon the total mass of industrious effort in a community; together, they add to it a degree of energy and effect which is not easily conceived. Some comments upon each of them, in the order in which they have been stated, may serve to explain their importance.

1. As to the division of labor

It has justly been observed, that there is scarcely any thing of greater moment in the economy of a

nation than the proper division of labor. The separation of occupations causes each to be carried to a much greater perfection than it could possibly acquire if they were blended. This arises principally from three circumstances:

1st. The greater skill and dexterity naturally resulting from a constant and undivided application to a single object. It is evident that these properties must increase in proportion to the separation and simplification of objects, and the steadiness of the attention devoted to each; and must be less in proportion to the complication of objects, and the number among which the attention is distracted.

2d. The economy of time, by avoiding the loss of it, incident to a frequent transition from one operation to another of a different nature. This depends on various circumstances: the transition itself, the orderly disposition of the implements, machines, and materials employed in the operation to be relinquished, the preparatory steps to the commencement of a new one, the interruption of the impulse which the mind of the workman acquires from being engaged in a particular operation, the distractions, hesitations, and reluctances which attend the passage from one kind of business to another.

3d. An extension of the use of machinery. A man occupied on a single object will have it more in his power, and will be more naturally led to exert his imagination, in devising methods to facilitate and abridge labor, than if he were perplexed by a variety of independent and dissimilar operations. Besides this the fabrication of machines, in numerous in-

stances, becoming itself a distinct trade, the artist who follows it has all the advantages which have been enumerated, for improvement in his particular art; and, in both ways, the invention and application of machinery are extended.

And from these causes united, the mere separation of the occupation of the cultivator from that of the artificer, has the effect of augmenting the productive powers of labor, and with them, the total mass of the produce or revenue of a country. In this single view of the subject, therefore, the utility of artificers or manufacturers, towards producing an increase of productive industry, is apparent.

2. As to an extension of the use of machinery, a point which, though partly anticipated, requires to be placed in one or two additional lights

The employment of machinery forms an item of great importance in the general mass of national industry. It is an artificial force brought in aid of the natural force of man; and, to all the purposes of labor, is an increase of hands, an accession of strength, unencumbered too by the expense of maintaining the laborer. May it not, therefore, be fairly inferred, that those occupations which give greatest scope to the use of this auxiliary, contribute most to the general stock of industrious effort, and, in consequence, to the general product of industry?

It shall be taken for granted, and the truth of the position referred to observation, that manufacturing pursuits are susceptible, in a greater degree, of the application of machinery, than those of agriculture.

If so, all the difference is lost to a community which, instead of manufacturing for itself, procures the fabrics requisite to its supply from other countries. The substitution of foreign for domestic manufactures is a transfer to foreign nations of the advantages accruing from the employment of machinery, in the modes in which it is capable of being employed with most utility and to the greatest extent.

The cotton-mill, invented in England, within the last twenty years, is a signal illustration of the general proposition which has been just advanced. In consequence of it, all the different processes for spinning cotton are performed by means of machines, which are put in motion by water, and attended chiefly by women and children—and by a smaller number of persons, in the whole, than are requisite in the ordinary mode of spinning. And it is an advantage of great moment, that the operations of this mill continue with convenience during the night as well as through the day. The prodigious effect of such a machine is easily conceived. To this invention is to be attributed, essentially, the immense progress which has been so suddenly made in Great Britain, in the various fabrics of cotton.

3. As to the additional employment of classes of the community not originally engaged in the particular business

This is not among the least valuable of the means by which manufacturing institutions contribute to augment the general stock of industry and production. In places where those institutions prevail,

besides the persons regularly engaged in them, they afford occasional and extra employment to industrious individuals and families, who are willing to devote the leisure resulting from the intermissions of their ordinary pursuits to collateral labors, as a resource for multiplying their acquisitions or their enjoyments. The husbandman himself experiences a new source of profit and support from the increased industry of his wife and daughters, invited and stimulated by the demands of the neighboring manufactories.

Besides this advantage of occasional employment to classes having different occupations, there is another, of a nature allied to it, and of a similar tendency. This is the employment of persons who would otherwise be idle, and in many cases a burthen on the community, either from the bias of temper, habit, infirmity of body, or some other cause, indisposing or disqualifying them for the toils of the country. It is worthy of particular remark that, in general, women and children are rendered more useful, and the latter more early useful, by manufacturing establishments, than they would otherwise be. Of the number of persons employed in the cotton manufactories of Great Britain, it is computed that four sevenths, nearly, are women and children, of whom the greatest proportion are children, and many of them of a tender age.

And thus it appears to be one of the attributes of manufactures, and one of no small consequence, to give occasion to the exertion of a greater quantity of industry, even by the same number of persons,

where they happen to prevail, than would exist if there were no such establishments.

4. As to the promoting of emigration from foreign countries

Men reluctantly quit one course of occupation and livelihood for another, unless invited to it by very apparent and proximate advantages. Many who would go from one country to another, if they had a prospect of continuing with more benefit the callings to which they have been educated, will often not be tempted to change their situation by the hope of doing better in some other way. Manufacturers who, listening to the powerful invitations of a better price for their fabrics or their labor, of greater cheapness of provisions and raw materials, of an exemption from the chief part of the taxes, burthens, and restraints which they endure in the Old World, of greater personal independence and consequence, under the operation of a more equal government, and of what is far more precious than mere religious toleration, a perfect equality of religious privileges, would probably flock from Europe to the United States, to pursue their own trades or professions, if they were once made sensible of the advantages they would enjoy, and were inspired with an assurance of encouragement and employment, will, with difficulty, be induced to transplant themselves, with a view to becoming cultivators of land.

If it be true, then, that it is the interest of the United States to open every possible avenue to emi-

gration from abroad, it affords a weighty argument for the encouragement of manufactures; which, for the reasons just assigned, will have the strongest tendency to multiply the inducements to it.

Here is perceived an important resource, not only for extending the population, and with it the useful and productive labor of the country, but likewise for the prosecution of manufactures, without deducting from the number of hands which might otherwise be drawn to tillage, and even for the indemnification of agriculture for such as might happen to be diverted from it. Many, whom manufacturing views would induce to emigrate, would, afterwards, yield to the temptations which the particular situation of this country holds out to agricultural pursuits. And while agriculture would, in other respects, derive many signal and unmingled advantages from the growth of manufactures, it is a problem whether it would gain or lose, as to the article of the number of persons employed in carrying it on.

5. As to the furnishing greater scope for the diversity of talents and dispositions, which discriminate men from each other

This is a much more powerful means of augmenting the fund of national industry, than may at first sight appear. It is a just observation, that minds of the strongest and most active powers for their proper objects, fall below mediocrity, and labor without effect, if confined to uncongenial pursuits. And it is thence to be inferred, that the results of

human exertion may be immensely increased by diversifying its objects. When all the different kinds of industry obtain in a community, each individual can find his proper element, and can call into activity the whole vigor of his nature. And the community is benefited by the services of its respective members, in the manner in which each can serve it with most effect.

If there be any thing in a remark often to be met with, namely, that there is, in the genius of the people of this country, a peculiar aptitude for mechanic improvements, it would operate as a forcible reason for giving opportunities to the exercise of that species of talent, by the propagation of manufactures.

6. As to the affording a more ample and various field for enterprise

This also is of greater consequence in the general scale of national exertion than might, perhaps, on a superficial view be supposed, and has effects not altogether dissimilar from those of the circumstance last noticed. To cherish and stimulate the activity of the human mind, by multiplying the objects of enterprise, is not among the least considerable of the expedients by which the wealth of a nation may be promoted. Even things in themselves not positively advantageous sometimes become so, by their tendency to provoke exertion. Every new scene which is opened to the busy nature of man to rouse and exert itself, is the addition of a new energy to the general stock of effort.

The spirit of enterprise, useful and prolific as it is, must necessarily be contracted or expanded, in proportion to the simplicity or variety of the occupations and productions which are to be found in a society. It must be less in a nation of mere cultivators, than in a nation of cultivators and merchants; less in a nation of cultivators and merchants, than in a nation of cultivators, artificers, and merchants.

7. *As to the creating, in some instances, a new, and securing, in all, a more certain and steady demand for the surplus produce of the soil*

This is among the most important of the circumstances which have been indicated. It is a principal means by which the establishment of manufactures contributes to an augmentation of the produce or revenue of a country, and has an immediate and direct relation to the prosperity of agriculture.

It is evident that the exertions of the husbandman will be steady or fluctuating, vigorous or feeble, in proportion to the steadiness or fluctuation, adequateness or inadequateness, of the markets on which he must depend for the vent of the surplus which may be produced by his labor; and that such surplus, in the ordinary course of things, will be greater or less in the same proportion.

For the purpose of this vent, a domestic market is greatly to be preferred to a foreign one; because it is, in the nature of things, far more to be relied upon.

It is a primary object of the policy of nations, to

be able to supply themselves with subsistence from their own soils; and manufacturing nations, as far as circumstances permit, endeavor to procure from the same source the raw materials necessary for their own fabrics. This disposition, urged by the spirit of monopoly, is sometimes even carried to an injudicious extreme. It seems not always to be recollected, that nations who have neither mines nor manufactures can only obtain the manufactured articles of which they stand in need, by an exchange of the products of their soils; and that if those who can best furnish them with such articles are unwilling to give a due course to this exchange, they must, of necessity, make every possible effort to manufacture for themselves; the effect of which is, that the manufacturing nations abridge the natural advantages of their situation, through an unwillingness to permit the agricultural countries to enjoy the advantages of theirs, and sacrifice the interests of a mutually beneficial intercourse to the vain project of selling every thing and buying nothing.

But it is also a consequence of the policy which has been noted, that the foreign demand for the products of agricultural countries is, in a great degree, rather casual and occasional, than certain or constant. To what extent injurious interruptions of the demand for some of the staple commodities of the United States may have been experienced from that cause, must be referred to the judgment of those who are engaged in carrying on the commerce of the country; but it may be safely affirmed that such interruptions are, at times, very inconveniently

felt, and that cases not unfrequently occur, in which markets are so confined and restricted as to render the demand very unequal to the supply.

Independently, likewise, of the artificial impediments which are created by the policy in question, there are natural causes tending to render the external demand for the surplus of agricultural nations a precarious reliance. The differences of seasons in the countries which are the consumers, make immense differences in the produce of their own soils, in different years; and consequently in the degrees of their necessity for foreign supply. Plentiful harvests with them, especially if similar ones occur at the same time in the countries which are the furnishers, occasion, of course, a glut in the markets of the latter.

Considering how fast and how much the progress of new settlements in the United States must increase the surplus produce of the soil, and weighing seriously the tendency of the system which prevails among most of the commercial nations of Europe, whatever dependence may be placed on the force of natural circumstances to counteract the effects of an artificial policy, there appear strong reasons to regard the foreign demand for that surplus as too uncertain a reliance, and to desire a substitute for it in an extensive domestic market.

To secure such a market there is no other expedient than to promote manufacturing establishments. Manufacturers, who constitute the most numerous class, after the cultivators of land, are for that reason the principal consumers of the surplus of their labor.

This idea of an extensive domestic market for the surplus produce of the soil, is of the first consequence. It is, of all things, that which most effectually conduces to a flourishing state of agriculture. If the effect of manufactories should be to detach a portion of the hands which would otherwise be engaged in tillage, it might possibly cause a smaller quantity of lands to be under cultivation; but, by their tendency to procure a more certain demand for the surplus produce of the soil, they would, at the same time, cause the lands which were in cultivation to be better improved and more productive. And while, by their influence, the condition of each individual farmer would be meliorated, the total mass of agricultural production would probably be increased. For this must evidently depend as much upon the degree of improvement, if not more, than upon the number of acres under culture.

It merits particular observation, that the multiplication of manufactories not only furnishes a market for those articles which have been accustomed to be produced in abundance in a country, but it likewise creates a demand for such as were either unknown or produced in inconsiderable quantities. The bowels as well as the surface of the earth are ransacked for articles which were before neglected. Animals, plants, and minerals acquire a utility and a value which were before unexplored.

The foregoing considerations seem sufficient to establish, as general propositions, that it is the interest of nations to diversify the industrious pursuits of the individuals who compose them; that the

establishment of manufactures is calculated not only to increase the general stock of useful and productive labor, but even to improve the state of agriculture in particular,—certainly to advance the interests of those who are engaged in it. There are other views that will be hereafter taken of the subject, which it is conceived will serve to confirm these inferences.

III. Previously to a further discussion of the objections to the encouragement of manufactures, which have been stated, it will be of use to see what can be said, in reference to the particular situation of the United States, against the conclusions appearing to result from what has been already offered.

It may be observed, and the idea is of no inconsiderable weight, that however true it might be that a state which, possessing large tracts of vacant and fertile territory, was, at the same time, secluded from foreign commerce, would find its interest and the interest of agriculture in diverting a part of its population from tillage to manufactures, yet it will not follow, that the same is true of a state which, having such vacant and fertile territory, has, at the same time, ample opportunity of procuring from abroad, on good terms, all the fabrics of which it stands in need, for the supply of its inhabitants. The power of doing this, at least secures the great advantage of a division of labor, leaving the farmer free to pursue, exclusively, the culture of his land, and enabling him to procure with its products the manufactured supplies requisite either to his wants or to his enjoyments.

And though it should be true that, in settled countries, the diversification of industry is conducive to an increase in the productive powers of labor, and to an augmentation of revenue and capital, yet it is scarcely conceivable that there can be any thing of so solid and permanent advantage to an uncultivated and unpeopled country, as to convert its wastes into cultivated and inhabited districts. If the revenue, in the meantime, should be less, the capital, in the event, must be greater.

To these observations, the following appears to be a satisfactory answer:

1st. If the system of perfect liberty to industry and commerce were the prevailing system of nations, the arguments which dissuade a country, in the predicament of the United States, from the zealous pursuit of manufactures, would doubtless have great force. It will not be affirmed that they might not be permitted, with few exceptions, to serve as a rule of national conduct. In such a state of things, each country would have the full benefit of its peculiar advantages to compensate for its deficiencies or disadvantages. If one nation were in a condition to supply manufactured articles on better terms than another, that other might find an abundant indemnification in a superior capacity to furnish the produce of the soil. And a free exchange, mutually beneficial, of the commodities which each was able to supply, on the best terms, might be carried on between them, supporting, in full vigor, the industry of each. And though the circumstances which have been mentioned, and others which will be unfolded

hereafter, render it probable that nations, merely agricultural, would not enjoy the same degree of opulence, in proportion to their numbers, as those which united manufactures with agriculture, yet the progressive improvement of the lands of the former might, in the end, atone for an inferior degree of opulence in the meantime; and in a case in which opposite considerations are pretty equally balanced, the option ought, perhaps, always be in favor of leaving industry to its own direction.

But the system which has been mentioned is far from characterizing the general policy of nations. The prevalent one has been regulated by an opposite spirit. The consequence of it is, that the United States are, to a certain extent, in the situation of a country precluded from foreign commerce. They can, indeed, without difficulty, obtain from abroad the manufactured supplies of which they are in want; but they experience numerous and very injurious impediments to the emission and vent of their own commodities. Nor is this the case in reference to a single foreign nation only. The regulations of several countries, with which we have the most extensive intercourse, throw serious obstructions in the way of the principal staples of the United States.

In such a position of things, the United States cannot exchange with Europe on equal terms; and the want of reciprocity would render them the victim of a system which should induce them to confine their views to agriculture, and refrain from manufactures. A constant and increasing necessity, on their part, for the commodities of Europe, and only

a partial and occasional demand for their own, in return, could not but expose them to a state of impoverishment, compared with the opulence to which their political and natural advantages authorize them to aspire.

Remarks of this kind are not made in the spirit of complaint. It is for the nations whose regulations are alluded to, to judge for themselves, whether, by aiming at too much, they do not lose more than they gain. It is for the United States to consider by what means they can render themselves least dependent on the combinations, right or wrong, of foreign policy.

It is no small consolation that, already, the measures which have embarrassed our trade have accelerated internal improvements, which, upon the whole, have bettered our affairs. To diversify and extend these improvements is the surest and safest method of indemnifying ourselves for any inconveniences which those or similar measures have a tendency to beget. If Europe will not take from us the products of our soil, upon terms consistent with our interest, the natural remedy is to contract, as fast as possible, our wants of her.

2d. The conversion of their waste into cultivated lands is certainly a point of great moment in the political calculations of the United States. But the degree in which this may possibly be retarded by the encouragement of manufactories, does not appear to countervail the powerful inducements to afford that encouragement.

An observation made in another place is of a nature to have great influence upon this question. If

it cannot be denied, that the interests, even of agriculture, may be advanced more by having such of the lands of a State as are occupied, under good cultivation, than by having a greater quantity occupied under a much inferior cultivation; and if manufactories, for the reasons assigned, must be admitted to have a tendency to promote a more steady and vigorous cultivation of the lands occupied than would happen without them, it will follow that they are capable of indemnifying a country for a diminution of the progress of new settlements, and may serve to increase both the capital value and the income of its lands, even though they should abridge the number of acres under tillage.

But it does by no means follow, that the progress of new settlements would be retarded by the extension of manufactures. The desire of being an independent proprietor of land is founded on such strong principles in the human breast, that, where the opportunity of becoming so is as great as it is in the United States, the proportion will be small of those whose situations would otherwise lead to it, who would be diverted from it towards manufactures. And it is highly probable, as already intimated, that the accession of foreigners, who, originally drawn over by manufacturing views, would afterward abandon them for agricultural, would be more than an equivalent for those of our own citizens who might happen to be detached from them.

The remaining objections to a particular encouragement of manufactures in the United States now require to be examined.

One of these turns on the proposition, that industry, if left to itself, will naturally find its way to the most useful and profitable employment. Whence it is inferred that manufactures, without the aid of government, will grow up as soon and as fast as the natural state of things and the interest of the community may require.

Against the solidity of this hypothesis, in the full latitude of the terms, very cogent reasons may be offered. These have relation to the strong influence of habit and the spirit of imitation; the fear of want of success in untried enterprises; the intrinsic difficulties incident to first essays towards a competition with those who have previously attained to perfection in the business to be attempted: the bounties, premiums, and other artificial encouragements with which foreign nations second the exertions of their own citizens, in the branches in which they are to be rivalled.

Experience teaches, that men are often so much governed by what they are accustomed to see and practise, that the simplest and most obvious improvements, in the most ordinary occupations, are adopted with hesitation, reluctance, and by slow gradations. The spontaneous transition to new pursuits, in a community long habituated to different ones, may be expected to be attended with proportionably greater difficulty. When former occupations ceased to yield a profit adequate to the subsistence of their followers, or when there was an absolute deficiency of employment in them, owing to the superabundance of hands, changes would ensue;

but these changes would be likely to be more tardy than might consist with the interest either of individuals or of the society. In many cases they would not happen, while a bare support could be insured by an adherence to ancient courses, though a resort to a more profitable employment might be practicable. To produce the desirable changes as early as may be expedient may therefore require the incitement and patronage of government.

The apprehension of failing in new attempts is, perhaps, a more serious impediment. There are dispositions apt to be attracted by the mere novelty of an undertaking; but these are not always the best calculated to give it success. To this it is of importance that the confidence of cautious, sagacious capitalists, both citizens and foreigners, should be excited. And to inspire this description of persons with confidence, it is essential that they should be made to see in any project which is new—and for that reason alone, if for no other, precarious—the prospect of such a degree of countenance and support from government, as may be capable of overcoming the obstacles inseparable from first experiments.

The superiority antecedently enjoyed by nations who have preoccupied and perfected a branch of industry, constitutes a more formidable obstacle than either of those which have been mentioned, to the introduction of the same branch into a country in which it did not before exist. To maintain, between the recent establishments of one country, and the long-matured establishments of another country, a

competition upon equal terms, both as to quality and price, is, in most cases, impracticable. The disparity, in the one, or in the other, or in both, must necessarily be so considerable, as to forbid a successful rivalship, without the extraordinary aid and protection of government.

But the greatest obstacle of all to the successful prosecution of a new branch of industry in a country in which it was before unknown, consists, as far as the instances apply, in the bounties, premiums, and other aids which are granted, in a variety of cases, by the nations in which the establishments to be imitated are previously introduced. It is well known (and particular examples, in the course of this report, will be cited) that certain nations grant bounties on the exportation of particular commodities, to enable their own workmen to undersell and supplant all competitors in the countries to which those commodities are sent. Hence the undertakers of a new manufacture have to contend, not only with the natural disadvantages of a new undertaking, but with the gratuities and remunerations which other governments bestow. To be enabled to contend with success, it is evident that the interference and aid of their own governments are indispensable.

Combinations by those engaged in a particular branch of business in one country, to frustrate the first efforts to introduce it into another, by temporary sacrifices, recompensed, perhaps, by extraordinary indemnifications of the government of such country, are believed to have existed, and are not

to be regarded as destitute of probability. The existence or assurance of aid from the government of the country in which the business is to be introduced, may be essential to fortify adventurers against the dread of such combinations; to defeat their efforts, if formed; and to prevent their being formed, by demonstrating that they must in the end prove fruitless.

Whatever room there may be for an expectation that the industry of a people, under the direction of private interest, will, upon equal terms, find out the most beneficial employment for itself, there is none for a reliance that it will struggle against the force of unequal terms, or will, of itself, surmount all the adventitious barriers to a successful competition which may have been erected, either by the advantages naturally acquired from practice and previous possession of the ground, or by those which may have sprung from positive regulations and an artificial policy. This general reflection might alone suffice as an answer to the objection under examination, exclusively of the weighty considerations which have been particularly urged.

The objections to the pursuit of manufactures in the United States which next present themselves to discussion, represent an impracticability of success, arising from three causes: scarcity of hands, dearness of labor, want of capital.

The two first circumstances are, to a certain extent, real; and, within due limits, ought to be admitted as obstacles to the success of manufacturing enterprise in the United States. But there are

various considerations which lessen their force, and tend to afford an assurance that they are not sufficient to prevent the advantageous prosecution of many very useful and extensive manufactories.

With regard to scarcity of hands, the fact itself must be applied with no small qualification to certain parts of the United States. There are large districts which may be considered as pretty fully peopled; and which, notwithstanding a continual drain for distant settlement, are thickly interspersed with flourishing and increasing towns. If these districts have not already reached the point at which the complaint of scarcity of hands ceases, they are not remote from it, and are approaching fast towards it; and having, perhaps, fewer attractions to agriculture than some other parts of the Union, they exhibit a proportionably stronger tendency towards other kinds of industry. In these districts may be discerned no inconsiderable maturity for manufacturing establishments.

But there are circumstances which have been already noticed, with another view, that materially diminish, everywhere, the effect of a scarcity of hands. These circumstances are: the great use which can be made of women and children, on which point a very pregnant and instructive fact has been mentioned—the vast extension given by late improvements to the employment of machines—which, substituting the agency of fire and water, has prodigiously lessened the necessity for manual labor; the employment of persons ordinarily engaged in other occupations, during the seasons or hours of

leisure, which, besides giving occasion to the exertion of a greater quantity of labor, by the same number of persons, and thereby increasing the general stock of labor as has been elsewhere remarked, may also be taken into the calculation, as a resource for obviating the scarcity of hands; lastly, the attraction of foreign emigrants. Whoever inspects, with a careful eye, the composition of our towns, will be made sensible to what an extent this resource may be relied upon. This exhibits a large proportion of ingenious and valuable workmen, in different arts and trades, who, by expatriating from Europe, have improved their own condition, and added to the industry and wealth of the United States. It is a natural inference, from the experience we have already had, that, as soon as the United States shall present the countenance of a serious prosecution of manufactures, as soon as foreign artists shall be made sensible that the state of things here affords a moral certainty of employment and encouragement, competent numbers of European workmen will transplant themselves, effectually to insure the success of the design. How, indeed, can it otherwise happen, considering the various and powerful inducements which the situation of this country offers —addressing themselves to so many strong passions and feelings, to so many general and particular interests.

It may be affirmed, therefore, in respect to hands for carrying on manufactures, that we shall in a great measure, trade upon a foreign stock, reserving our own for the cultivation of our lands and

the manning of our ships, as far as character and circumstances shall incline. It is not unworthy of remark, that the objection to the success of manufacturers, deduced from the scarcity of hands, is alike applicable to trade and navigation, and yet these are perceived to flourish, without any sensible impediment from that cause.

As to the dearness of labor (another of the obstacles alleged), this has relation principally to two circumstances: one, that which has been just discussed, of the scarcity of hands; the other, the greatness of profits.

As far as it is a consequence of the scarcity of hands, it is mitigated by all the considerations which have been adduced as lessening that deficiency. It is certain, too, that the disparity in this respect, between some of the most manufacturing parts of Europe and a large proportion of the United States, is not nearly so great as is commonly imagined. It is also much less in regard to artificers and manufacturers, than in regard to country laborers; and while a careful comparison shows that there is, in this particular, much exaggeration, it is also evident that the effect of the degree of disparity which does truly exist, is diminished in proportion to the use which can be made of machinery.

To illustrate this last idea, let it be supposed that the difference of price, in two countries, of a given quantity of manual labor requisite to the fabrication of a given article, is as ten, and that some mechanic power is introduced into both countries, which, performing half the necessary labor, leaves only half to

be done by hand; it is evident that the difference in the cost of the fabrication of the article in question, in the two countries, as far as it is connected with the price of labor, will be reduced from ten to five, in consequence of the introduction of that power.

This circumstance is worthy of the most particular attention. It diminishes immensely one of the objections most strenuously urged against the success of manufactures in the United States.

To procure all such machines as are known in any part of Europe, can only require a proper provision and due pains. The knowledge of several of the most important of them is already possessed. The preparation of them here is, in most cases, practicable on nearly equal terms. As far as they depend on water, some superiority of advantages may be claimed, from the uncommon variety and greater cheapness of situations adapted to mill-seats, with which different parts of the United States abound.

So far as the dearness of labor may be a consequence of the greatness of profits in any branch of business, it is no obstacle to its success. The undertaker can afford to pay the price.

There are grounds to conclude, that undertakers of manufactures in this country can, at this time, afford to pay higher wages to the workmen they may employ, than are paid to similar workmen in Europe. The prices of foreign fabrics in the market of the United States, which will, for a long time, regulate the prices of the domestic ones, may be considered as compounded of the following ingredients: the first cost of materials, including the taxes, if any, which

are paid upon them, where they are made; the expense of grounds, buildings, machinery and tools; the wages of the persons employed in the manufactory; the profits on the capital or stock employed; the commissions of agents to purchase them where they are made; the expense of transportation to the United States, including insurance and other incidental charges; the taxes or duties, if any, and fees of office, which are paid on their exportation; the taxes or duties, and fees of office, which are paid on their importation.

As to the first of these items, the cost of materials, the advantage, upon the whole, is at present on the side of the United States; and the difference in their favor must increase, in proportion as a certain and extensive domestic demand shall induce the proprietors of land to devote more of their attention to the production of those materials. It ought not to escape observation, in a comparison on this point, that some of the principal manufacturing countries of Europe are much more dependent on foreign supply, for the materials of their manufactures, than would be the United States, who are capable of supplying themselves with a greater abundance, as well as a greater variety, of the requisite materials.

As to the second item, the expense of grounds, buildings, machinery, and tools, an equality, at least, may be assumed; since advantages, in some particulars, will counterbalance temporary disadvantages in others.

As to the third item, or the article of wages, the comparison certainly turns against the United States;

though, as before observed, not in so great a degree as commonly supposed.

The fourth item is alike applicable to the foreign and to the domestic manufacture. It is, indeed, more properly a result, than a particular to be compared.

But, with respect to all the remaining items, they are alone applicable to the foreign manufacture, and, in the strictest sense, extraordinaries; constituting a sum of extra charge on the foreign fabric, which cannot be estimated at less than from fifteen to thirty per cent. on the cost of it at the manufactory.

This sum of extra charge may confidently be regarded as more than a counterpoise for the real difference in the price of labor; and is a satisfactory proof that manufactures may prosper, in defiance of it, in the United States.

To the general allegation, connected with the circumstances of scarcity of hands and dearness of labor, that extensive manufactures can only grow out of a redundant or full population, it will be sufficient to answer generally, that the fact has been otherwise. That the situation alleged to be an essential condition of success, has not been that of several nations, at periods when they had already attained to maturity in a variety of manufactures.

The supposed want of capital for the prosecution of manufactures in the United States, is the most indefinite of the objections which are usually opposed to it.

It is very difficult to pronounce any thing precise concerning the real extent of the moneyed capital

of a country, and still more concerning the proportion which it bears to the objects that invite the employment of capital. It is not less difficult to pronounce, how far the effect of any given quantity of money, as capital, or, in other words, as a medium for circulating the industry and property of a nation, may be increased by the very circumstance of the additional motion which is given to it, by new objects of employment. That effect, like the momentum of descending bodies, may not improperly be represented as in a compound ratio to mass and velocity. It seems pretty certain, that a given sum of money, in a situation in which the quick impulses of commercial activity were little felt, would appear inadequate to the circulation of as great a quantity of industry and property, as in one in which their full influence was experienced.

It is not obvious why the same objection might not as well be made to external commerce as to manufactures, since it is manifest that our immense tracts of land, occupied and unoccupied, are capable of giving employment to more capital than is actually bestowed upon them. It is certain that the United States offer a vast field for the advantageous employment of capital; but it does not follow that there will not be found, in one way or another, a sufficient fund for the successful prosecution of any species of industry which is likely to prove truly beneficial.

The following considerations are of a nature to remove all inquietude on the score of the want of capital:

The introduction of banks, as has been shown on another occasion, has a powerful tendency to extend the active capital of a country. Experience of the utility of these institutions is multiplying them in the United States. It is probable that they will be established wherever they can exist with advantage; and wherever they can be supported, if administered with prudence, they will add new energies to all pecuniary operations.

The aid of foreign capital may safely, and with considerable latitude, be taken into calculation. Its instrumentality has been long experienced in our external commerce; and it has begun to be felt in various other modes. Not only our funds, but our agriculture, and other internal improvements, have been animated by it. It has already, in a few instances, extended even to our manufactures.

It is a well-known fact that there are parts of Europe which have more capital than profitable domestic objects of employment. Hence, among other proofs, the large loans continually furnished to foreign states. And it is equally certain, that the capital of other parts may find more profitable employment in the United States than at home. And, notwithstanding there are weighty inducements to prefer the employment of capital at home, even at less profit, to an investment of it abroad, though with greater gain, yet these inducements are overruled, either by a deficiency of employment, or by a very material difference in profit. Both these causes operate to produce a transfer of foreign capital to the United States. It is certain, that various objects

in this country hold out advantages, which are with difficulty to be equalled elsewhere; and under the increasingly favorable impressions which are entertained of our government, the attractions will become more and more strong. These impressions will prove a rich mine of prosperity to the country, if they are confirmed and strengthened by the progress of our affairs. And, to secure this advantage, little more is now necessary than to foster industry, and cultivate order and tranquillity at home and abroad.

It is not impossible, that there may be persons disposed to look, with a jealous eye, on the introduction of foreign capital, as if it were an instrument to deprive our own citizens of the profits of our own industry; but, perhaps, there never could be a more unreasonable jealousy. Instead of being viewed as a rival, it ought to be considered as a most valuable auxiliary, conducing to put in motion a greater quantity of productive labor, and a greater portion of useful enterprise, than could exist without it. It is at least evident, that, in a country situated like the United States, with an infinite fund of resources yet to be unfolded, every farthing of foreign capital which is laid out in internal meliorations, and in industrial establishments, of a permanent nature, is a precious acquisition.

And, whatever be the objects which originally attract foreign capital, when once introduced, it may be directed towards any purpose of beneficial exertion which is desired. And to detain it among us, there can be no expedient so effectual, as to enlarge the sphere within which it may be usefully em-

ployed: though introduced merely with views to speculations in the funds, it may afterwards be rendered subservient to the interests of agriculture, commerce, and manufactures.

But the attraction of foreign capital for the direct purpose of manufactures, ought not to be deemed a chimerical expectation. There are already examples of it, as remarked in another place. And the examples, if the disposition be cultivated, can hardly fail to multiply. There are, also, instances of another kind, which serve to strengthen the expectation. Enterprises for improving the public communications, by cutting canals, opening the obstructions in rivers, and erecting bridges, have received very material aid from the same source.

When the manufacturing capitalist of Europe shall advert to the many important advantages which have been intimated in the course of this report, he cannot but perceive very powerful inducements to a transfer of himself and his capital to the United States. Among the reflections which a most interesting peculiarity of situation is calculated to suggest, it cannot escape his observation, as a circumstance of moment in the calculation, that the progressive population and improvement of the United States insure a continually increasing domestic demand for the fabrics which he shall produce, not to be affected by any external casualties or vicissitudes.

But, while there are circumstances sufficiently strong to authorize a considerable degree of reliance on the aid of foreign capital, towards the

attainment of the object in view, it is satisfactory to have good grounds of assurance, that there are domestic resources, of themselves adequate to it. It happens that there is a species of capital, actually existing with the United States, which relieves from all inquietude on the score of want of capital. This is the funded debt.

The effect of a funded debt, as a species of capital, has been noticed upon a former occasion; but a more particular elucidation of the point seems to be required, by the stress which is here laid upon it. This shall, accordingly, be attempted.

Public funds answer the purpose of capital, from the estimation in which they are usually held by moneyed men; and, consequently, from the ease and dispatch with which they can be turned into money. This capacity of prompt convertibility into money causes a transfer of stock to be, in a great number of cases, equivalent to a payment in coin. And where it does not happen to suit the party who is to receive, to accept a transfer of stock, the party who is to pay is never at a loss to find, elsewhere, a purchaser of his stock, who will furnish him, in lieu of it, with the coin of which he stands in need.

Hence, in a sound and settled state of the public funds, a man possessed of a sum in them, can embrace any scheme of business which offers, with as much confidence as if he were possessed of an equal sum in coin.

This operation of public funds as capital, is too obvious to be denied; but it is objected to the idea of their operating as an augmentation of the capital

of the community, that they serve to occasion the destruction of some other capital, to an equal amount.

The capital, which alone they can be supposed to destroy, must consist of—

The annual revenue, which is applied to the payment of interest on the debt, and to the gradual redemption of the principal; the amount of the coin which is employed in circulating the funds, or, in other words, in effecting the different alienations which they undergo.

But the following appears to be the true and accurate view of this matter.

1st. As to the point of the annual revenue requisite for payment of interest and redemption of principal.

As a determinate proportion will tend to perspicuity in the reasoning, let it be supposed, that the annual revenue to be applied, corresponding with the modification of the six per cent. stock of the United States, is in the ratio of eight upon the hundred that; is, in the first instance, six on account of interest, and two on account of principal.

Thus far, it is evident that the capital destroyed, to the capital created, would bear no greater proportion than eight to one hundred. There would be withdrawn, from the total mass of other capitals, a sum of eight dollars to be paid to the public creditor; while he would be possessed of a sum of one hundred dollars, ready to be applied to any purpose, to be embarked in any enterprise which might appear to him eligible. Here, then, the augmentation of

capital, or the excess of that which is produced beyond that which is destroyed, is equal to ninety-two dollars.

To this conclusion it may be objected, that the sum of eight dollars is to be withdrawn annually, until the whole hundred is extinguished; and it may be inferred, that, in process of time, a capital will be destroyed equal to that which is at first created.

But it is nevertheless true, that, during the whole of the interval, between the creation of the capital of one hundred dollars, and its reduction to a sum not greater than that of the annual revenue appropriated to its redemption, there will be a greater active capital in existence than if no debt had been contracted. The sum drawn from other capitals in any one year will not exceed eight dollars; but there will be, at every instant of time during the whole period in question, a sum corresponding with so much of the principal as remains unredeemed, in the hands of some person or other, employed, or ready to be employed, in some profitable undertaking. There will, therefore, constantly be more capital in capacity to be employed, than capital taken from employment. The excess, for the first year, has been stated to be ninety-two dollars; it will diminish yearly; but there always will be an excess, until the principal of the debt is brought to a level with the redeeming annuity; that is, in the case which has been assumed, by way of example, to eight dollars. The reality of this excess becomes palpable, if it be supposed, as often happens, that the citizen of a foreign country imports into the

United States one hundred dollars for the purchase of an equal sum of public debt—here is an absolute augmentation of the mass of circulating coin to the extent of one hundred dollars. At the end of the year, the foreigner is presumed to draw back eight dollars, on account of his principal and interest, but he still leaves ninety-two of his original deposit in circulation, as he, in like manner, leaves eighty-four at the end of the second year, drawing back then, also, the annuity of eight dollars. And thus the matter proceeds; the capital left in circulation diminishing, in each year, and coming nearer to the level of the annuity drawn back. There are, however, some differences in the ultimate operation of the part of the debt which is purchased by foreigners, and that which remains in the hands of citizens. But the general effect in each case, though in different degrees, is, to add to the active capital of the country.

Hitherto, the reasoning has proceeded on a concession of the position, that there is a destruction of some other capital, to the extent of the annuity appropriated to the payment of the interest and the redemption of the principal of the debt; but in this too much has been conceded. There is, at most, a temporary transfer of some other capital, to the amount of the annuity, from those who pay, to the creditor, who receives; which he again restores to the circulation, to resume the offices of a capital. This he does either immediately, by employing the money in some branch of industry, or mediately, by lending it to some other person, who does so employ

it, or by spending it on his own maintenance. In either supposition, there is no destruction of capital; there is nothing more than a suspension of its motion for a time—that is, while it is passing from the hands of those who pay into the public coffers, and thence, through the public creditor, into some other channel of circulation. When the payments of interest are periodical and quick, and made by the instrumentality of banks, the diversion of suspension of capital may almost be denominated momentary. Hence the deduction, on this account, is far less than it at first sight appears to be.

There is, evidently, as far as regards the annuity, no destruction nor transfer of any other capital than that portion of the income of each individual which goes to make up the annuity. The land which furnishes the farmer with the sum which he is to contribute, remains the same; and the like may be observed of other capitals. Indeed, as far as the tax, which is the object of contribution (as frequently happens, when it does not oppress by its weight), may have been a motive to greater exertion in any occupation, it may even serve to increase the contributory capital. This idea is not without importance in the general view of the subject.

It remains to see what further deduction ought to be made from the capital which is created, by the existence of the debt, on account of the coin which is employed in its circulation. This is susceptible of much less precise calculation than the article which has been just discussed. It is impossible to say what proportion of coin is necessary to carry on the

alienations which any species of property usually undergoes. The quantity, indeed, varies according to circumstances. But it may still, without hesitation, be pronounced, from the quickness of the rotation, or, rather, of the transitions, that the medium of circulation always bears but a small proportion to the amount of the property circulated. And it is then satisfactorily deducible, that the coin employed in the negotiations of the funds, and which serves to give them activity, as capital, is incomparably less than the sum of the debt negotiated for the purpose of business.

It ought not, however, to be omitted, that the negotiation of the funds becomes itself a distinct business, which employs, and, by employing, diverts, a portion of the circulating coin from other pursuits. But, making due allowance for this circumstance, there is no reason to conclude that the effect of the diversion of coin, in the whole operation, bears any considerable proportion to the amount of the capital to which it gives activity. The sum of the debt in circulation is continually at the command of any useful enterprise; the coin itself, which circulates it, is never more than momentarily suspended from its ordinary functions. It experiences an incessant and rapid flux and reflux, to and from the channels of industry, to those of speculations in the funds.

There are strong circumstances in confirmation of this theory. The force of moneyed capital which has been displayed in Great Britain, and the height to which every species of industry has grown up under it, defy a solution, from the quantity of coin

which that kingdom has ever possessed. Accordingly, it has been, coeval with its funding system, the prevailing opinion of men of business, and of the generality of the most sagacious theorists of that country, that the operation of the public funds, as capital, has contributed to the effect in question. Among ourselves, appearances, thus far, favor the same conclusion. Industry, in general, seems to have been re-animated. There are symptoms indicating an extension of our commerce. Our navigation has certainly, of late, had a considerable spring; and there appears to be, in many parts of the Union, a command of capital which till lately, since the Revolution at least, was unknown. But it is, at the same time, to be acknowledged, that other circumstances have concurred (and in a great degree) in producing the present state of things, and that the appearances are not yet sufficiently decisive to be entirely relied upon.

In the question under discussion, it is important to distinguish between an absolute increase of capital, or an accession of real wealth, and an artificial increase of capital, as an engine of business, or as an instrument of industry and commerce. In the first sense, a funded debt has no pretensions to being deemed an increase of capital; in the last, it has pretensions which are not easy to be controverted. Of a similar nature is bank credit; and, in an inferior degree, every species of private credit.

But though a funded debt is not, in the first instance, an absolute increase of capital, or an augmentation of real wealth, yet, by serving as a new

power in the operations of industry, it has, within certain bounds, a tendency to increase the real wealth of a community, in like manner as money, borrowed by a thrifty farmer to be laid out in the improvement of his farm, may, in the end, add to his stock of real riches.

There are respectable individuals who, from a just aversion to an accumulation of public debt, are unwilling to concede to it any kind of utility; who can discern no good to alleviate the ill with which they suppose it pregnant; who cannot be persuaded that it ought, in any sense, to be viewed as an increase of capital, lest it should be inferred that, the more debt the more capital, the greater the burthens the greater the blessings of the community.

But it interests the public councils to estimate every object as it truly is; to appreciate how far the good, in any measure, is compensated by the ill, or the ill by the good: either of them is seldom unmixed.

Neither will it follow that an accumulation of debt is desirable, because a certain degree of it operates as capital. There may be a plethora in the political as in the natural body; there may be a state of things in which any such artificial capital is unnecessary. The debt, too, may be swelled to such a size as that the greatest part of it may cease to be useful as a capital, serving only to pamper the dissipation of idle and dissolute individuals; as that the sums required to pay the interest upon it may become oppressive, and beyond the means which a government can employ, consistently with its

tranquillity, to raise them; as that the resources of taxation to face the debt may have been strained too far to admit of extensions adequate to exigencies which regard the public safety.

Where this critical point is, cannot be pronounced; but it is impossible to believe that there is not such a point.

And as the vicissitudes of nations beget a perpetual tendency to the accumulation of debt, there ought to be, in every government, a perpetual, anxious, and unceasing effort to reduce that which at any time exists, as fast as shall be practicable, consistently with integrity and good faith.

Reasonings on a subject comprehending ideas so abstract and complex, so little reducible to a precise calculation, as those which enter into the question just discussed, are always attended with a danger of running into fallacies. Due allowance ought, therefore, to be made for this possibility. But, as far as the nature of the subject admits of it, there appears to be satisfactory ground for a belief that the public funds operate as a resource of capital to the citizens of the United States; and, if they are a resource at all, it is an extensive one.

To all the arguments which are brought to evince the impracticability of success in manufacturing establishments in the United States, it might have been a sufficient answer to have referred to the experience of what has been already done. It is certain that several important branches have grown up and flourished, with a rapidity which surprises, affording an encouraging assurance of success in

future attempts. Of these it may not be improper to enumerate the most considerable.

1. *Of Skins.*—Tanned and tawed leather, dressed skins, shoes, boots, and slippers, harness and saddlery of all kinds, portmanteaus and trunks, leather breeches, gloves, muffs, and tippets, parchment and glue.

2. *Of Iron.*—Bar and sheet iron, steel, nail rods and nails, implements of husbandry, stoves, pots, and other household utensils, the steel and iron work of carriages, and for ship-building, anchors, scale beams and weights, and various tools of artificers, arms of different kinds; though the manufacture of these last has of late diminished for want of demand.

3. *Of Wood.*—Ships, cabinet wares, and turnery, wool and cotton cards, and other machinery for manufactures and husbandry, mathematical instruments, coopers' wares of every kind.

4. *Of Flax and Hemp.*—Cables, sail cloth, cordage, twine, and pack thread.

5. Bricks and coarse tiles, and potters' wares.

6. Ardent spirits and malt liquors.

7. Writing and printing paper, sheathing and wrapping paper, pasteboard, fullers' or press papers, paper hangings.

8. Hats of fur and wool, and mixtures of both; women's stuff and silk shoes.

9. Refined sugars.

10. Oils of animals and seeds, soap, spermaceti and tallow candles.

11. Copper and brass wires, particularly utensils for distillers, sugar refiners, and brewers; andirons

and other articles for household use, philosophical apparatus.

12. Tin wares for most purposes of ordinary use.
13. Carriages of all kinds.
14. Snuff, chewing and smoking tobacco.
15. Starch and hair-powder.
16. Lampblack, and other painters' colors.
17. Gunpowder.

Besides manufactories of these articles, which are carried on as regular trades, and have attained to a considerable degree of maturity, there is a vast scene of household manufacturing, which contributes more largely to the supply of the community than could be imagined without having made it an object of particular inquiry. This observation is the pleasing result of the investigation to which the subject of this report has led, and is applicable as well to the Southern as to the Middle and Northern States. Great quantities of coarse cloths, coatings, serges, and flannels, linsey woolseys, hosiery of wool, cotton, and thread, coarse fustians, jeans, and muslins, checked and striped cotton and linen goods, bedticks, coverlets and counterpanes, tow linens, coarse shirtings, sheetings, towelling, and table linen, and various mixtures of wool and cotton, and of cotton and flax, are made in the household way, and, in many instances, to an extent not only sufficient for the supply of the families in which they are made, but for sale, and even, in some cases, for exportation. It is computed in a number of districts that two thirds, three fourths, and even four fifths of all the clothing of the inhabitants are made by them-

selves. The importance of so great a progress as appears to have been made in family manufactures, within a few years, both in a moral and political view, renders the fact highly interesting.

Neither does the above enumeration comprehend all the articles that are manufactured, as regular trades. Many others occur, which are equally well established, but which, not being of equal importance, have been omitted. And there are many attempts, still in their infancy, which, though attended with very favorable appearances, could not have been properly comprised in an enumeration of manufactories already established. There are other articles, also, of great importance, which, though, strictly speaking, manufactures, are omitted, as being immediately connected with husbandry: such are flour, pot- and pearl-ashes, pitch, tar, turpentine, and the like.

There remains to be noticed an objection to the encouragement of manufactures, of a nature different from those which question the probability of success. This is derived from its supposed tendency to give a monopoly of advantages to particular classes, at the expense of the rest of the community, who, it is affirmed, would be able to procure the requisite supplies of manufactured articles on better terms from foreigners than from our own citizens; and who, it is alleged, are reduced to the necessity of paying an enhanced price for whatever they want, by every measure which obstructs the free competition of foreign commodities.

It is not an unreasonable supposition, that meas-

ures which serve to abridge the free competition of foreign articles, have a tendency to occasion an enhancement of prices; and it is not to be denied that such is the effect, in a number of cases; but the fact does not uniformly correspond with the theory. A reduction of prices has, in several instances, immediately succeeded the establishment of a domestic manufacture. Whether it be that foreign manufacturers endeavor to supplant, by underselling our own, or whatever else be the cause, the effect has been such as is stated, and the reverse of what might have been expected.

But, though it were true that the immediate and certain effect of regulations controlling the competition of foreign with domestic fabrics was an increase of price, it is universally true that the contrary is the ultimate effect with every successful manufacture. When a domestic manufacture has attained to perfection, and has engaged in the prosecution of it a certain number of persons, it invariably becomes cheaper. Being free from the heavy charges which attend the importation of foreign commodities, it can be afforded, and accordingly seldom or never fails to be sold, cheaper, in process of time, than was the foreign article for which it is a substitute. The internal competition which takes place soon does away with every thing like monopoly, and by degrees reduces the price of the article to the minimum of a reasonable profit on the capital employed. This accords with the reason of the thing, and with experience.

Whence it follows, that it is the interest of a com-

munity, with a view to eventual and permanent economy, to encourage the growth of manufactures. In a national view, a temporary enhancement of price must always be well compensated by a permanent reduction of it.

It is a reflection which may with propriety be indulged here, that this eventual diminution of the prices of manufactured articles, which is the result of internal manufacturing establishments, has a direct and very important tendency to benefit agriculture. It enables the farmer to procure, with a smaller quantity of his labor, the manufactured produce of which he stands in need, and consequently increases the value of his income and property.

The objections which are commonly made to the expediency of encouraging, and to the probability of succeeding in, manufacturing pursuits, in the United States, having now been discussed, the considerations, which have appeared in the course of the discussion, recommending that species of industry to the patronage of the government, will be materially strengthened by a few general and some particular topics, which have been naturally reserved for subsequent notice.

1. There seems to be a moral certainty that the trade of a country which is both manufacturing and agricultural, will be more lucrative and prosperous than that of a country which is merely agricultural.

One reason for this is found in that general effort of nations (which has been already mentioned) to procure from their own soils the articles of prime

necessity requisite to their own consumption and use, and which serves to render their demand for a foreign supply of such articles, in a great degree, occasional and contingent. Hence, while the necessities of nations exclusively devoted to agriculture, for the fabrics of manufacturing states, are constant and regular, the wants of the latter for the products of the former are liable to very considerable fluctuations and interruptions. The great inequalities resulting from difference of seasons have been, elsewhere, remarked. This uniformity of demand on one side, and unsteadiness of it on the other, must necessarily have a tendency to cause the general course of the exchange of commodities between the parties to turn to the disadvantage of the merely agricultural states. Peculiarity of situation, a climate and soil adapted to the production of peculiar commodities, may, sometimes, contradict the rule, but there is every reason to believe that it will be found, in the main, a just one.

Another circumstance, which gives a superiority of commercial advantages to states that manufacture as well as cultivate, consists in the more numerous attractions which a more diversified market offers to foreign customers, and in the greater scope which it affords to mercantile enterprise. It is a position of indisputable truth, in commerce, depending too on very obvious reasons, that the greatest resort will ever be to those marts where commodities, while equally abundant, are most various. Each difference of kind holds out an additional inducement; and it is a position not less clear, that the field of

enterprise must be enlarged to the merchants of a country, in proportion to the variety as well as the abundance of commodities which they find at home for exportation to foreign markets.

A third circumstance, perhaps not inferior to either of the other two, conferring the superiority which has been stated, has relation to the stagnations of demand for certain commodities, which, at some time or other, interfere more or less with the sale of all. The nation which can bring to market but few articles is likely to be more quickly and sensibly affected by such stagnations, than one which is always possessed of a great variety of commodities; the former frequently finds too great a proportion of its stock of materials for sale or exchange lying on hand, or is obliged to make injurious sacrifices to supply its wants of foreign articles, which are numerous and urgent in proportion to the smallness of the number of its own. The latter commonly finds itself indemnified, by the high prices of some articles, for the low prices of others; and the prompt and advantageous sale of those articles which are in demand, enables its merchants the better to wait for a more favorable change in respect to those which are not. There is ground to believe that a difference of situation, in this particular, has immensely different effects upon the wealth and prosperity of nations.

From these circumstances, collectively, two important inferences are to be drawn: one, that there is always a higher probability of a favorable balance of trade, in regard to countries in which

manufactures, founded on the basis of a thriving agriculture, flourish, than in regard to those which are confined wholly, or almost wholly, to agriculture; the other (which is also a consequence of the first), that countries of the former description are likely to possess more pecuniary wealth, or money, than those of the latter.

Facts appear to correspond with this conclusion. The importations of manufactured supplies seem invariably to drain the merely agricultural people of their wealth. Let the situation of the manufacturing countries of Europe be compared, in this particular, with that of countries which only cultivate, and the disparity will be striking. Other causes, it is true, help to account for this disparity between some of them; and among these causes, the relative state of agriculture; but between others of them, the most prominent circumstance of dissimilitude arises from the comparative state of manufactures. In corrobation of the same idea, it ought not to escape remark, that the West India Islands, the soils of which are the most fertile, and the nation which, in the greatest degree, supplies the rest of the world with the precious metals, exchange to a loss with almost every other country.

As far as experience at home may guide, it will lead to the same conclusion. Previous to the Revolution, the quantity of coin possessed by the colonies which now compose the United States appeared to be inadequate to their circulation; and their debt to Great Britain was progressive. Since the Revolution, the States in which manufactures have most

increased have recovered fastest from the injuries of the late war, and abound most in pecuniary resources.

It ought to be admitted, however, in this, as in the preceding case, that causes irrelative to the state of manufactures, account, in a degree, for the phenomena remarked. The continual progress of new settlements has a natural tendency to occasion an unfavorable balance of trade, though it indemnifies for the inconvenience, by that increase of the national capital which flows from the conversion of waste into improved lands, and the different degrees of external commerce which are carried on by the different States, may make material differences in the comparative state of their wealth. The first circumstance has reference to the deficiency of coin and the increase of debt previous to the Revolution; the last, to the advantages which the most manufacturing States appear to have enjoyed over the others since the termination of the late war.

But the uniform appearance of an abundance of specie, as the concomitant of a flourishing state of manufactures, and of the reverse, where they do not prevail, afford a strong presumption of their favorable operation upon the wealth of a country.

Not only the wealth but the independence and security of a country appear to be materially connected with the prosperity of manufactures. Every nation, with a view to those great objects, ought to endeavor to possess within itself, all the essentials of national supply. These comprise the means of subsistence, habitation, clothing, and defence.

The possession of these is necessary to the perfection of the body politic; to the safety as well as to the welfare of the society. The want of either is the want of an important organ of political life and motion; and in the various crises which await a state, it must severely feel the effects of any such deficiency. The extreme embarrassments of the United States during the late war, from an incapacity of supplying themselves, are still matter of keen recollection; a future war might be expected again to exemplify the mischiefs and dangers of a situation to which that incapacity is still, in too great a degree, applicable, unless changed by timely and vigorous exertion. To effect this change, as fast as shall be prudent, merits all the attention and all the zeal of our public councils: 't is the next great work to be accomplished.

The want of a navy, to protect our external commerce, as long as it shall continue, must render it a peculiarly precarious reliance for the supply of essential articles, and must serve to strengthen prodigiously the arguments in favor of manufactures.

To these general considerations are added some of a more particular nature.

Our distance from Europe, the great fountain of manufactured supply, subjects us, in the existing state of things, to inconvenience and loss, in two ways.

The bulkiness of those commodities, which are the chief productions of the soil, necessarily imposes very heavy charges on their transportation to distant markets. These charges, in the cases in which the

nations to whom our products are sent, maintain a competition in the supply of their own markets, principally fall upon us, and form material deductions from the primitive value of the articles furnished. The charges on manufactured supplies, brought from Europe, are greatly enhanced by the same circumstances of distance. These charges, again, in the cases in which our own industry maintains no competition in our own markets, also principally fall upon us, and are an aditional cause of extraordinary deduction from the primitive value of our own products; these being the materials of exchange for the foreign fabrics which we consume.

The equality and moderation of individual property, and the growing settlements of new districts, occasion, in this country, an unusual demand for coarse manufactures; the charges of which, being greater in proportion to their greater bulk, augment the disadvantage which has been just described.

As in most countries, domestic supplies maintain a very considerable competition with such foreign productions of the soil as are imported for sale, if the extensive establishment of manufactories in the United States does not create a similar competition in respect to manufactured articles, it appears to be clearly deducible, from the considerations which have been mentioned, that they must sustain a double loss in their exchanges with foreign nations, strongly conducive to an unfavorable balance of trade, and very prejudicial to their interests.

These disadvantages press, with no small weight, on the landed interest of the country. In seasons

of peace, they cause a serious deduction from the intrinsic value of the products of the soil. In the time of a war, which should either involve ourselves, or another nation possessing a considerable share of our carrying trade, the charges on the transportation of our commodities, bulky as most of them are, could hardly fail to prove a grievous burthen to the farmer, while obliged to depend, in so great a degree as he now does, upon foreign markets, for the vent of the surplus of his labor.

As far as the prosperity of the fisheries of the United States is impeded by the want of an adequate market, there arises another special reason for desiring the extension of manufactures. Besides the fish, which, in many places, would be likely to make a part of the subsistence of the persons employed, it is known that the oils, bones, and skins of marine animals, are of extensive use in various manufactures. Hence, the prospect of an additional demand for the produce of the fisheries.

One more point of view only remains, in which to consider the expediency of encouraging manufactures in the United States.

It is not uncommon to meet with an opinion, that, though the promoting of manufactures may be the interest of a part of the Union, it is contrary to that of another part. The Northern and Southern regions are sometimes represented as having adverse interests in this respect. Those are called manufacturing, these agricultural States; and a species of opposition is imagined to subsist between the manufacturing and agricultural interests.

This idea of an opposition between those two interests is the common error of the early periods of every country; but experience gradually dissipates it. Indeed, they are perceived so often to succor and befriend each other, that they come at length to be considered as one—a supposition which has been frequently abused, and is not universally true. Particular encouragements of particular manufactures may be of a nature to sacrifice the interests of landholders to those of manufacturers; but it is nevertheless a maxim, well established by experience, and generally acknowledged, where there has been sufficient experience, that the aggregate prosperity of manufactures and the aggregate prosperity of agriculture are intimately connected. In the course of the discussion which has had place, various weighty considerations have been adduced, operating in support of that maxim. Perhaps the superior steadiness of the demand of a domestic market, for the surplus produce of the soil, is, alone, a convincing argument of its truth.

Ideas of a contrariety of interests between the Northern and Southern regions of the Union are, in the main, as unfounded as they are mischievous. The diversity of circumstances, on which such contrariety is usually predicated, authorizes a directly contrary conclusion. Mutual wants constitute one of the strongest links of political connection; and the extent of these bears a natural proportion to the diversity in the means of mutual supply.

Suggestions of an opposite complexion are ever to be deplored, as unfriendly to the steady pursuit of

one great common cause, and to the perfect harmony of all the parts.

In proportion as the mind is accustomed to trace the intimate connection of interest which subsists between all the parts of a society united under the same government, the infinite variety of channels will serve to circulate the prosperity of each, to and through the rest,—in that proportion will be little apt to be disturbed by solicitudes and apprehensions which originate in local discriminations.

It is a truth, as important as it is agreeable, and one to which it is not easy to imagine exceptions, that every thing tending to establish substantial and permanent order in the affairs of a country, to increase the total mass of industry and opulence, is ultimately beneficial to every part of it. On the credit of this great truth, an acquiescence may safely be accorded, from every quarter, to all institutions and arrangements which promise a confirmation of public order and an augmentation of national resource.

But there are more particular considerations which serve to fortify the idea that the encouragement of manufactures is the interest of all parts of the Union. If the Northern and Middle States should be the principal scenes of such establishments, they would immediately benefit the more Southern, by creating a demand for productions, some of which they have in common with the other States, and others, which are either peculiar to them, or more abundant, or of better quality, than elsewhere. These productions, principally, are timber,

flax, hemp, cotton, wool, raw silk, indigo, iron, lead, furs, hides, skins, and coal; of these articles, cotton and indigo are peculiar to the Southern States, as are, hitherto, lead and coal; flax and hemp are, or may be, raised in greater abundance there than in the more Northern States; and the wool of Virginia is said to be of better quality than that of any other State—a circumstance rendered the more probable by the reflection, that Virginia embraces the same latitudes with the finest wool countries of Europe. The climate of the South is also better adapted to the production of silk.

The extensive cultivation of cotton can, perhaps, hardly be expected but from the previous establishment of domestic manufactories of the article; and the surest encouragement and vent for the others would result from similar establishments in respect to them.

If, then, it satisfactorily appears, that it is the interest of the United States, generally, to encourage manufactures, it merits particular attention, that there are circumstances which render the present a critical moment for entering, with zeal, upon the important business. The effort cannot fail to be materially seconded by a considerable and increasing influx of money, in consequence of foreign speculations in the funds, and by the disorders which exist in different parts of Europe.

The first circumstance not only facilitates the execution of manufacturing enterprises, but it indicates them as a necessary means to turn the thing itself to advantage, and to prevent its being eventually an evil. If useful employment be not found for the

money of foreigners, brought to the country to be invested in purchases of the public debt, it will quickly be re-exported, to defray the expense of an extraordinary consumption of foreign luxuries; and distressing drains of our specie may, hereafter, be experienced, to pay the interest and redeem the principal of the purchased debt.

This useful employment, too, ought to be of a nature to produce solid and permanent improvements. If the money merely serves to give a temporary spring to foreign commerce; as it cannot procure new and lasting outlets for the products of the country, there will be no real or durable advantage gained. As far as it shall find its way in agricultural meliorations, in opening canals, and in similar improvements, it will be productive of substantial utility. But there is reason to doubt, whether, in such channels, it is likely to find sufficient employment; and still more, whether many of those who possess it would be as readily attracted to objects of this nature, as to manufacturing pursuits, which bear greater analogy to those to which they are accustomed, and to the spirit generated by them.

To open the one field, as well as the other, will at least secure a better prospect of useful employment for whatever accession of money there has been or may be.

There is, at the present juncture, a certain fermentation of mind, a certain activity of speculation and enterprise which, if properly directed, may be made subservient to useful purposes; but which, if left entirely to itself, may be attended with pernicious effects.

The disturbed state of Europe inclining its citizens to emigration, the requisite workmen will be more easily acquired than at another time; and the effect of multiplying the opportunities of employment to those who emigrate, may be an increase of the number and extent of valuable acquisitions to the population, arts, and industry of the country.

To find pleasure in the calamities of other nations would be criminal; but to benefit ourselves, by opening an asylum to those who suffer in consequence of them, is as justifiable as it is politic.

A full view having now been taken of the inducements to the promotion of manufactures in the United States, accompanied with an examination of the principal objections which are commonly urged in opposition, it is proper, in the next place, to consider the means by which it may be effected, as introductory to a specification of the objects, which, in the present state of things, appear the most fit to be encouraged, and of the particular measures which it may be advisable to adopt, in respect to each.

In order to a better judgment of the means proper to be resorted to by the United States, it will be of use to advert to those which have been employed with success in other countries. The principal of these are:

1. *Protecting duties—or duties on those foreign articles which are the rivals of the domestic ones intended to be encouraged*

Duties of this nature evidently amount to a virtual bounty on the domestic fabrics; since, by enhancing

the charges on foreign articles, they enable the national manufacturers to undersell all their foreign competitors. The propriety of this species of encouragement need not be dwelt upon, as it is not only a clear result from the numerous topics which have been suggested, but is sanctioned by the laws of the United States, in a variety of instances; it has the additional recommendation of being a resource of revenue. Indeed, all the duties imposed on imported articles, though with an exclusive view to revenue, have the effect, in contemplation, and, except where they fall on raw materials, wear a beneficent aspect toward the manufacturers of the country.

2. *Prohibitions of rival articles, or duties equivalent to prohibitions*

This is another and an efficacious mean of encouraging national manufactures; but, in general, it is only fit to be employed when a manufacture has made such progress, and is in so many hands, as to insure a due competition, and an adequate supply on reasonable terms. Of duties equivalent to prohibitions, there are examples in the laws of the United States; and there are other cases to which the principle may be advantageously extended, but they are not numerous.

Considering a monopoly of the domestic market to its own manufacturers as the reigning policy of manufacturing nations, a similar policy, on the part of the United States, in every proper instance, is dictated, it might almost be said, by the principles

of distributive justice; certainly, by the duty of endeavoring to secure to their own citizens a reciprocity of advantages.

3. *Prohibitions of the exportation of the materials of manufactures*

The desire of securing a cheap and plentiful supply for the national workmen, and where the article is either peculiar to the country, or of peculiar quality there, the jealousy of enabling foreign workmen to rival those of the nation with its own materials, are the leading motives to this species of regulation. It ought not to be affirmed that it is in no instance proper; but is, certainly, one which ought to be adopted with great circumspection, and only in very plain cases. It is seen at once, that its immediate operation is to abridge the demand, and keep down the price of the produce of some other branch of industry—generally speaking, of agriculture—to the prejudice of those who carry it on; and though, if it be really essential to the prosperity of any very important national manufacture, it may happen that those who are injured, in the first instance, may be, eventually, indemnified by the superior steadiness of an extensive domestic market, depending on that prosperity; yet, in a matter in which there is so much room for nice and difficult combinations, in which such opposite considerations combat each other, prudence seems to dictate that the expedient in question ought to be indulged with a sparing hand.

4. Pecuniary bounties

This has been found one of the most efficacious means of encouraging manufactures, and is, in some views, the best. Though it has not yet been practised upon by the Government of the United States (unless the allowance on the exportation of dried and pickled fish and salted meat could be considered as a bounty), and though it is less favored by public opinion than some other modes, its advantages are these:

1. It is a species of encouragement more positive and direct than any other, and, for that very reason, has a more immediate tendency to stimulate and uphold new enterprises, increasing the chances of profit, and diminishing the risks of loss, in the first attempts.

2. It avoids the inconvenience of a temporary augmentation of price, which is incident to some other modes; or it produces it to a less degree, either by making no addition to the charges on the rival foreign article, as in the case of protecting duties, or by making a smaller addition. The first happens when the fund for the bounty is derived from a different object (which may or may not increase the price of some other article, according to the nature of that object); the second, when the fund is derived from the same or a similar object, of foreign manufacture. One per cent. duty on the foreign article, converted into a bounty on the domestic, will have an equal effect with a duty of two per cent., exclusive of such bounty; and the price of the foreign

commodity is liable to be raised, in the one case, in the proportion of one per cent.; in the other, in that of two per cent. Indeed the bounty, when drawn from another source, is calculated to promote a reduction of price; because, without laying any new charge on the foreign article, it serves to introduce a competition with it, and to increase the total quantity of the article in the market.

3. Bounties have not, like high protecting duties, a tendency to produce scarcity. An increase of price is not always the immediate, though, where the progress of a domestic manufacture does not counteract a rise, it is, commonly, the ultimate, effect of an additional duty. In the interval between the laying of the duty and the proportional increase of price, it may discourage importation, by interfering with the profits to be expected from the sale of the article.

4. Bounties are, sometimes, not only the best but the only proper expedient for uniting the encouragement of a new object of agriculture with that of a new object of manufacture. It is the interest of the farmer to have the production of the raw material promoted by counteracting the interference of the foreign material of the same kind. It is the interest of the manufacturer to have the material abundant and cheap. If, prior to the domestic production of the material, in sufficient quantity to supply the manufacturer on good terms, a duty be laid upon the importation of it from abroad, with a view to promote the raising of it at home, the interest both of the farmer and manufacturer will be disserved.

By either destroying the requisite supply, or raising the price of the article beyond what can be afforded to be given for it by the conductor of an infant manufacture, it is abandoned or fails, and there being no domestic manufactories to create a demand for the raw material, which is raised by the farmer, it is in vain that the competition of the like foreign article may have been destroyed.

It cannot escape notice, that the duty upon the importation of an article can no otherwise aid the domestic production of it, than by giving the latter greater advantages in the home market. It can have no influence upon the advantageous sale of the article produced in foreign markets—no tendency, therefore, to promote its exportation.

The true way to conciliate these two interests is to lay a duty on foreign manufactures of the material, the growth of which is desired to be encouraged, and to apply the produce of that duty, by way of bounty, either upon the production of the material itself, or upon its manufacture at home, or upon both. In this disposition of the thing, the manufacturer commences his enterprise under every advantage which is attainable, as to quantity or price of the raw material; and the farmer, if the bounty be immediately to him, is enabled by it to enter into a successful competition with the foreign material. If the bounty be to the manufacturer, on so much of the domestic material as he consumes, the operation is nearly the same; he has a motive of interest to prefer the domestic commodity, if of equal quality, even at a higher price than the foreign, so long as the

difference of price is any thing short of the bounty which is allowed upon the article.

Except the simple and ordinary kinds of household manufacture or those for which there are very commanding local advantages, pecuniary bounties are, in most cases, indispensable to the introduction of a new branch. A stimulus and a support, not less powerful and direct, is, generally speaking, essential to the overcoming of the obstacles which arise from the competitions of superior skill and maturity elsewhere. Bounties are especially essential in regard to articles upon which those foreigners, who have been accustomed to supply a country, are in the practice of granting them.

The continuance of bounties on manufactures long established must almost always be of questionable policy; because a presumption would arise, in every such case, that there were natural and inherent impediments to success. But, in new undertakings, they are as justifiable as they are oftentimes necessary.

There is a degree of prejudice against bounties, from an appearance of giving away the public money without an immediate consideration, and from a supposition that they serve to enrich particular classes at the expense of the community.

But neither of these sources of dislike will bear a serious examination. There is no purpose to which public money can be more beneficially applied than to the acquisition of a new and useful branch of industry; no consideration more valuable than a permanent addition to the general stock of productive labor.

As to the second source of objection, it equally lies against other modes of encouragement, which are admitted to be eligible. As often as a duty upon a foreign article makes an addition to its price, it causes an extra expense to the community for the benefit of the domestic manufacturer. A bounty does no more. But it is the interest of the society, in each case, to submit to the temporary expense—which is more than compensated by an increase of industry and wealth, by an augmentation of resources and independence, and by the circumstance of eventual cheapness, which has been noticed in another place.

It would deserve attention, however, in the employment of this species of encouragement in the United States, as a reason for moderating the degree of it in the instances in which it might be deemed eligible, that the great distance of this country from Europe imposes very heavy charges on all the fabrics which are brought from thence, amounting to from fifteen to thirty per cent. on their value, according to their bulk.

A question has been made concerning the constitutional right of the Government of the United States to apply this species of encouragement, but there is certainly no good foundation for such a question. The National Legislature has express authority "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare," with no other qualifications than that "all duties, imposts, and excises shall be uniform throughout the United

States; and that no capitation or other direct tax shall be laid, unless in proportion to numbers ascertained by a census or enumeration, taken on the principles prescribed in the Constitution," and that "no tax or duty shall be laid on articles exported from any State."

These three qualifications excepted, the power to raise money is plenary and indefinite, and the objects to which it may be appropriated are no less comprehensive than the payment of the public debts, and the providing for the common defence and general welfare. The terms "general welfare" were doubtless intended to signify more than was expressed or imported in those which preceded; otherwise, numerous exigencies incident to the affairs of a nation would have been left without a provision. The phrase is as comprehensive as any that could have been used, because it was not fit that the constitutional authority of the Union to appropriate its revenues should have been restricted within narrower limits than the "general welfare," and because this necessarily embraces a vast variety of particulars, which are susceptible neither of specification nor of definition.

It is, therefore, of necessity, left to the discretion of the National Legislature to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper. And there seems to be no room for a doubt that whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, are within the

sphere of the national councils, as far as regards an application of money.

The only qualification of the generality of the phrase in question, which seems to be admissible, is this: That the object to which an appropriation of money is to be made be general, and not local; its operation extending in fact or by possibility throughout the Union, and not being confined to a particular spot.

No objection ought to arise to this construction, from a supposition that it would imply a power to do whatever else should appear to Congress conducive to the general welfare. A power to appropriate money with this latitude, which is granted, too, in express terms, would not carry a power to do any other thing not authorized in the Constitution, either expressly or by fair implication.

5. *Premiums*

These are of a nature allied to bounties, though distinguishable from them in some important features.

Bounties are applicable to the whole quantity of an article produced, or manufactured, or exported, and involve a correspondent expense. Premiums serve to reward some particular excellence or superiority, some extraordinary exertion or skill, and are dispensed only in a small number of cases. But their effect is to stimulate general effort; contrived so as to be both honorary and lucrative, they address themselves to different passions—touching the chords, as well of emulation as of interest. They

are, accordingly, a very economical means of exciting the enterprise of a whole community.

There are various societies, in different countries, whose object is the dispensation of premiums for the encouragement of agriculture, arts, manufactures, and commerce; and though they are, for the most part, voluntary associations, with comparatively slender funds, their utility has been immense. Much has been done, by this means, in Great Britain. Scotland, in particular, owes, materially to it, a prodigious amelioration of condition. From a similar establishment in the United States, supplied and supported by the Government of the Union, vast benefits might, reasonably, be expected. Some further ideas on this head shall, accordingly, be submitted in the conclusion of this report.

6. *The exemption of the materials of manufactures from duty*

The policy of that exemption, as a general rule, particularly in reference to new establishments, is obvious. It can hardly ever be advisable to add the obstructions of fiscal burthens to the difficulties which naturally embarrass a new manufacture; and where it is matured, and in condition to become an object of revenue, it is, generally speaking, better that the fabric, than the material, should be the subject of taxation. Ideas of proportion between the quantum of the tax and the value of the article, can be more easily adjusted in the former than in the latter case. An argument for exemptions of this kind, in the United States, is to be derived from

the practice, as far as their necessities have permitted, of those nations whom we are to meet as competitors in our own and in foreign markets.

There are, however, exceptions to it, of which some examples will be given under the next head.

The laws of the Union afford instances of the observance of the policy here recommended, but it will probably be found advisable to extend it to some other cases. Of a nature bearing some affinity to that policy, is the regulation which exempts from duty the tools and implements, as well as the books, clothes, and household furniture, of foreign artists who come to reside in the United States—an advantage already secured to them by the laws of the Union, and which it is, in every view, proper to continue.

7. *Drawbacks of the duties which are imposed on the materials of manufactures*

It has already been observed, as a general rule, that duties on those materials ought, with certain exceptions, to be forborne. Of these exceptions, three cases occur, which may serve as examples. One, where the material is itself an object of general or extensive consumption, and a fit and productive source of revenue. Another, where a manufacture of a simpler kind, the competition of which, with a like domestic article, is desired to be restrained, partakes of the nature of a raw material, from being capable, by a further process, to be converted into a manufacture of a different kind, the introduction or growth of which is desired to be encouraged. A

third, where the material itself is a production of the country, and in sufficient abundance to furnish a cheap and plentiful supply to the national manufacturers.

Under the first description comes the article of molasses. It is not only a fair object of revenue, but, being a sweet, it is just that the consumers of it should pay a duty as well as the consumers of sugar.

Cottons and linens, in their white state, fall under the second description. A duty upon such as are imported is proper, to promote the domestic manufacture of similar articles in the same state. A drawback of that duty is proper, to encourage the printing and staining, at home, of those which are brought from abroad. When the first of these manufactures has attained sufficient maturity in a country to furnish a full supply for the second, the utility of the drawback ceases.

The article of hemp either now does, or may be expected soon to, exemplify the third case in the United States.

Where duties on the materials of manufactures are not laid for the purpose of preventing a competition with some domestic production, the same reasons which recommend, as a general rule, the exemption of those materials from duties, would recommend, as a like general rule, the allowance of drawbacks in favor of the manufacturer. Accordingly, such drawbacks are familiar in countries which systematically pursue the business of manufactures; which furnishes an argument for the observance of a similar policy in the United States;

and the idea has been adopted by the laws of the Union, in the instances of salt and molasses. It is believed that it will be found advantageous to extend it to some other articles.

8. *The encouragement of new inventions and discoveries at home, and of the introduction into the United States of such as may have been made in other countries; particularly those which relate to machinery*

This is among the most useful and unexceptionable of the aids which can be given to manufactures. The usual means of that encouragement are pecuniary rewards, and, for a time, exclusive privileges. The first must be employed according to the occasion and the utility of the invention or discovery. For the last, so far as respects "authors and inventors," provision has been made by law. But it is desirable, in regard to improvements, and secrets of extraordinary value, to be able to extend the same benefit to introducers, as well as authors and inventors; a policy which has been practised with advantage in other countries. Here, however, as in some other cases, there is cause to regret that the competency of the authority of the National Government to the good which might be done, is not without a question. Many aids might be given to industry, many internal improvements of primary magnitude might be promoted, by an authority operating throughout the Union, which cannot be effected as well, if at all, by an authority confined within the limits of a single State.

But, if the Legislature of the Union cannot do all the good that might be wished, it is, at least, desirable that all may be done which is practicable. Means for promoting the introduction of foreign improvements, though less efficaciously than might be accomplished with more adequate authority, will form a part of the plan intended to be submitted in the close of this report.

It is customary with manufacturing nations to prohibit, under severe penalties, the exportation of implements and machines which they have either invented or improved. There are already objects for a similar regulation in the United States; and others may be expected to occur from time to time. The adoption of it seems to be dictated by the principle of reciprocity. Greater liberality, in such respects, might better comport with the general spirit of the country; but a selfish exclusive policy, in other quarters, will not always permit the free indulgence of a spirit which would place us upon an unequal footing. As far as prohibitions tend to prevent foreign competitors from deriving the benefit of the improvements made at home, they tend to increase the advantages of those by whom they may have been introduced, and operate as an encouragement to exertion.

9. *Judicious regulations for the inspection of manufactured commodities*

This is not among the least important of the means by which the prosperity of manufactures may be promoted. It is, indeed, in many cases, one of the

most essential. Contributing to prevent frauds upon consumers at home and exporters to foreign countries, to improve the quality and preserve the character of the national manufactures, it cannot fail to aid the expeditious and advantageous sale of them, and to serve as a guard against successful competition from other quarters. The reputation of the flour and lumber of some States, and of the potash of others, has been established by an attention to this point. And the like good name might be procured for those articles, wheresoever produced, by a judicious and uniform system of inspection throughout the ports of the United States. A like system might also be extended with advantage to other commodities.

10. The facilitating of pecuniary remittances from place to place—

Is a point of considerable moment to trade in general, and to manufacturers in particular, by rendering more easy the purchase of raw materials and provisions, and the payment for manufactured supplies. A general circulation of bank paper, which is to be expected from the institution lately established, will be a most valuable means to this end. But much good would also accrue from some additional provisions respecting inland bills of exchange. If those drawn in one State, payable in another, were made negotiable everywhere, and interest and damages allowed in case of protest, it would greatly promote negotiations between the citizens of different States, by rendering them more secure, and with

it the convenience and advantage of the merchants and manufacturers of each.

11. The facilitating of the transportation of commodities

Improvements favoring this object intimately concern all the domestic interests of a community; but they may, without impropriety, be mentioned as having an important relation to manufactures. There is, perhaps, scarcely anything which has been better calculated to assist the manufacturers of Great Britain than the melioration of the public roads of that kingdom, and the great progress which has been of late made in opening canals. Of the former, the United States stand much in need; for the latter, they present uncommon facilities.

The symptoms of attention to the improvement of inland navigation which have lately appeared in some quarters, must fill with pleasure every breast warmed with a true zeal for the prosperity of the country. These examples, it is to be hoped, will stimulate the exertions of the government and citizens of every State. There can certainly be no object more worthy of the cares of the local administrations; and it were to be wished that there was no doubt of the power of the National Government to lend its direct aid on a comprehensive plan. This is one of those improvements which could be prosecuted with more efficacy by the whole than by any part or parts of the Union. There are cases in which the general interest will be in danger to be sacrificed to the collision of some supposed local interests.

Jealousies, in matters of this kind, are as apt to exist as they are apt to be erroneous.

The following remarks are sufficiently judicious and pertinent to deserve a literal quotation:

"Good roads, canals, and navigable rivers, by diminishing the expense of carriage, put the remote parts of a country more nearly upon a level with those in the neighborhood of the town. They are, upon that account, the greatest of all improvements. They encourage the cultivation of the remote, which must always be the most extensive, circle of the country. They are advantageous to the town, by breaking down the monopoly of the country in its neighborhood. They are advantageous, even to that part of the country. Though they introduce some rival commodities into the old market, they open many new markets to its produce. Monopoly, besides, is a great enemy to good management, which can never be universally established, but in consequence of that free and universal competition, which forces every body to have recourse to it for the sake of self-defence. It is not more than fifty years ago that some of the counties in the neighborhood of London petitioned the Parliament against the extension of the turnpike roads into the remoter counties. Those remoter counties, they pretended, from the cheapness of labor, would be able to sell their grass and corn cheaper in the London market than themselves, and they would thereby reduce their rents, and ruin their cultivation. Their rents, however, have risen, and their cultivation has improved since that time."

Specimens of a spirit similar to that which governed the counties here spoken of, present themselves too frequently to the eye of an impartial observer, and render it a wish of patriotism, that the body in this country, in whose councils a local or partial spirit is least likely to predominate, were at liberty to pursue and promote the general interest, in those instances in which there might be danger of the interference of such a spirit.

The foregoing are the principal of the means by which the growth of manufactures is ordinarily promoted. It is, however, not merely necessary that the measures of government which have a direct view to manufactures, should be calculated to assist and protect them, but that those which only collaterally affect them in the general course of the administration, should be guarded from any peculiar tendency to injure them.

There are certain species of taxes, which are apt to be oppressive to different parts of the community, and, among other ill effects, have a very unfriendly aspect towards manufactures. All poll or capitation taxes are of this nature. They either proceed according to a fixed rate, which operates unequally and injuriously to the industrious poor, or they vest a discretion, in certain officers, to make estimates and assessments, which are necessarily vague, conjectural, and liable to abuse. They ought, therefore, to be abstained from in all but cases of distressing emergency.

All such taxes (including all taxes on occupations) which proceed according to the amount of capital

supposed to be employed in a business, or of profits supposed to be made in it, are unavoidably hurtful to industry. It is in vain that the evil may be endeavored to be mitigated, by leaving it, in the first instance, in the option of the party to be taxed, to declare the amount of his capital or profits.

Men engaged in any trade or business have commonly weighty reasons to avoid disclosures which would expose, with anything like accuracy, the real state of their affairs. They most frequently find it better to risk oppression, than to avail themselves of so inconvenient a refuge, and the consequence is, that they often suffer oppression.

When the disclosure, too, if made, is not definite, but controllable by the discretion, or, in other words, by the passions and prejudices, of the revenue officers, it is not only an ineffectual protection, but the possibility of its being so, is an additional reason for not resorting to it.

Allowing to the public officers the most equitable dispositions, yet, where they are to exercise a discretion without certain data, they cannot fail to be often misled by appearances. The quantity of business which seems to be going on is, in a vast number of cases, a very deceitful criterion of the profits which are made; yet it is, perhaps, the best they can have, and it is the one on which they will most naturally rely. A business, therefore, which may rather require aid from the government, than be in a capacity to be contributory to it, may find itself crushed by the mistaken conjectures of the assessors of taxes.

Arbitrary taxes, under which denomination are

comprised all those that leave the quantum of the tax to be raised on each person to the discretion of certain officers, are as contrary to the genius of liberty as to the maxims of industry. In this light they have been viewed by the most judicious observers on government, who have bestowed upon them the severest epithets of reprobation, as constituting one of the worst features usually to be met with in the practice of despotic governments.

It is certain, at least, that such taxes are particularly inimical to the success of manufacturing industry, and ought carefully to be avoided by a government which desires to promote it.

The great copiousness of the subject of this report has insensibly led to a more lengthy preliminary discussion than was originally contemplated or intended. It appeared proper to investigate principles, to consider objections, and to endeavor to establish the utility of the thing proposed to be encouraged, previous to a specification of the objects which might occur, as meriting or requiring encouragement, and of the measures which might be proper in respect to each. The first purpose having been fulfilled, it remains to pursue the second.

In the selection of objects, five circumstances seem entitled to particular attention: the capacity of the country to furnish the raw material; the degree in which the nature of the manufacture admits of a substitute for manual labor in machinery; the facility of execution; the extensiveness of the uses to which the article can be applied; its subserviency to other interests, particularly the great one

of national defence. There are, however, objects to which these circumstances are little applicable, which, for some special reasons, may have a claim to encouragement.

A designation of the principal raw material of which each manufacture is composed, will serve to introduce remarks upon it; as, in the first place,

IRON

The manufactures of this article are entitled to pre-eminent rank. None are more essential in their kinds, nor so extensive in their uses. They constitute, in whole, or in part, the implements or the materials, or both, of almost every useful occupation. Their instrumentality is everywhere conspicuous.

It is fortunate for the United States that they have peculiar advantages for deriving the full benefit of this most valuable material, and they have every motive to improve it with systematic care. It is to be found in various parts of the United States, in great abundance, and of almost every quality; and fuel, the chief instrument in manufacturing it, is both cheap and plenty. This particularly applies to charcoal; but there are productive coal mines already in operation, and strong indications that the material is to be found in abundance in a variety of other places.

The inquiries to which the subject of this report has led have been answered with proofs that manufactories of iron, though generally understood to be extensive, are far more so than is commonly supposed. The kinds in which the greatest progress

has been made have been mentioned in another place, and need not be repeated; but there is little doubt that every other kind, with due cultivation, will rapidly succeed. It is worthy of remark, that several of the particular trades of which it is the basis are capable of being carried on without the aid of large capitals.

Iron-works have greatly increased in the United States, and are prosecuted with much more advantage than formerly. The average price, before the Revolution, was about sixty-four dollars per ton; at present it is about eighty—a rise which is chiefly to be attributed to the increase of manufactures of the material.

The still further extension and multiplication of such manufactures will have the double effect of promoting the extraction of the metal itself, and of converting it to a greater number of profitable purposes.

Those manufactures, too, unite, in a greater degree than almost any others, the several requisites which have been mentioned as proper to be consulted in the selection of objects.

The only further encouragement of manufactories of this article, the propriety of which may be considered as unquestionable, seems to be an increase of the duties on foreign rival commodities.

Steel is a branch which has already made a considerable progress, and it is ascertained that some new enterprises, on a more extensive scale, have been lately set on foot. The facility of carrying it to an extent which will supply all internal demands,

and furnish a considerable surplus for exportation, cannot be doubted. The duty upon the importation of this article, which is, at present, seventy-five cents per cwt., may, it is conceived, be safely and advantageously extended to one hundred cents. It is desirable, by decisive arrangements, to second the efforts which are making in so very valuable a branch.

The United States already, in a great measure, supply themselves with nails and spikes. They are able, and ought certainly, to do it entirely. The first and most laborious operation, in this manufacture, is performed by water-mills; and of the persons afterwards employed, a great proportion are boys, whose early habits of industry are of importance to the community, to the present support of their families, and to their own future comfort. It is not less curious than true, that, in certain parts of the country, the making of nails is an occasional family manufacture.

The expediency of an additional duty on these articles is indicated by an important fact. About 1,800,000 pounds of them were imported into the United States in the course of a year, ending the 30th of September, 1790. A duty of two cents per pound would, it is presumable, speedily put an end to so considerable an importation. And it is, in every view, proper that an end should be put to it.

The manufacture of these articles, like that of some others, suffers from the carelessness and dishonesty of a part of those who carry it on. An inspection in certain cases might tend to correct the evil. It will deserve consideration whether a regu-

lation of this sort cannot be applied, without inconvenience, to the exportation of the articles, either to foreign countries, or from one State to another.

The implements of husbandry are made in several States in great abundance. In many places it is done by the common blacksmiths. And there is no doubt that an ample supply for the whole country can, with great ease, be procured among ourselves.

Various kinds of edged tools for the use of mechanics are also made; and a considerable quantity of hollow wares, though the business of castings has not yet attained the perfection which might be wished. It is, however, improving, and as there are respectable capitals, in good hands, embarked in the prosecution of those branches of iron manufacture which are yet in their infancy, they may all be contemplated as objects not difficult to be acquired.

To insure the end it seems equally safe and prudent to extend the duty, ad valorem, upon all manufactures of iron, or of which iron is the article of chief value, to ten per cent.

Fire-arms and other military weapons may, it is conceived, be placed, without inconvenience, in the class of articles rated at fifteen per cent. There are already manufactories of these articles, which only require the stimulus of a certain demand to render them adequate to the supply of the United States.

It would also be a material aid to manufactures of this nature, as well as a means of public security, if provision should be made for an annual purchase of military weapons, of home manufacture, to a certain determinate extent, in order to the formation of

arsenals; and to replace, from time to time, such as should be drawn for use, so as always to have in store the quantity of each kind which should be deemed a competent supply.

But it may, hereafter, deserve legislative consideration, whether manufactories of all the necessary weapons of war ought not to be established on account of the government itself. Such establishments are agreeable to the usual practice of nations, and that practice seems founded on sufficient reason.

There appears to be an improvidence in leaving these essential implements of national defence to the casual speculations of individual adventure—a resource which can less be relied upon, in this case, than in most others; the articles in question not being objects of ordinary and indispensable private consumption or use. As a general rule, manufactories on the immediate account of government are to be avoided; but this seems to be one of the few exceptions which that rule admits, depending on very special reasons.

Manufactures of steel, generally, or of which steel is the article of chief value, may, with advantage, be placed in the class of goods rated at seven and a half per cent. As manufactures of this kind have not yet made any considerable progress, it is a reason for not rating them as high as those of iron; but, as this material is the basis of them, and as their extension is not less practicable than important, it is desirable to promote it by a somewhat higher duty than the present.

A question arises how far it might be expedient to

permit the importation of iron, in pigs and bars, free from duty. It would certainly be favorable to manufactures of the article; but the doubt is, whether it might not interfere with its production.

Two circumstances, however, abate, if they do not remove, apprehension on this score: one is the considerable increase of price which has been already remarked, and which renders it probable that the free admission of foreign iron would not be inconsistent with an adequate profit to the proprietors of iron-works; the other is the augmentation of demand which would be likely to attend the increase of manufactures of the article, in consequence of the additional encouragements proposed to be given. But caution, nevertheless, in a matter of this kind is most advisable. The measure suggested ought, perhaps, rather to be contemplated subject to the lights of further experience, than immediately adopted.

COPPER

The manufactures of which this article is susceptible are, also, of great extent and utility. Under this description, those of brass, of which it is the principal ingredient, are intended to be included.

The material is a natural production of the country. Mines of copper have actually been wrought, and with profit to the undertakers, though it is not known that any are now in this condition. And nothing is easier than the introduction of it from other countries, on moderate terms and in great plenty.

Coppersmiths and brass founders, particularly the

former, are numerous in the United States; some of whom carry on business to a respectable extent.

To multiply and extend manufactories of the materials in question, is worthy of attention and effort. In order to this, it is desirable to facilitate a plentiful supply of the materials; and a proper mean to this end is, to place them in the class of free articles. Copper, in plates, and brass, are already in this predicament: but copper, in pigs and bars, is not; neither is lapis calaminaris; which, together with copper and charcoal, constitute the component ingredients of brass. The exemption from duty, by parity of reason, ought to embrace all such of these articles as are objects of importation.

An additional duty on brass wares will tend to the general end in view. These now stand at five per cent., while those of tin, pewter, and copper are rated at seven and a half. There appears to be a propriety, in every view, in placing brass wares upon the same level with them; and it merits consideration, whether the duty upon all of them ought not be raised to ten per cent.

LEAD

There are numerous proofs that this material abounds in the United States, and requires little to unfold it to an extent more than equal to every domestic occasion. A prolific mine of it has long been open in the southwestern parts of Virginia, and under a public administration, during the late war, yielded a considerable supply for military use. This is now in the hands of individuals, who not only

carry it on with spirit, but have established manufactories of it at Richmond, in the same State.

The duties already laid upon the importation of this article either in its unmanufactured or manufactured state, insure it a decisive advantage in the home market, which amounts to considerable encouragement. If the duty on pewter wares should be raised, it would afford a further encouragement. Nothing else occurs as proper to be added.

FOSSIL COAL

This, as an important instrument of manufactures, may, without impropriety, be mentioned among the subjects of this report.

A copious supply of it would be of great consequence to the iron branch. As an article of household fuel, also, it is an interesting production, the utility of which must increase in proportion to the decrease of wood, by the progress of settlement and cultivation. And its importance to navigation, as an immense article of transportation coastwise, is signally exemplified in Great Britain.

It is known that there are several coal mines in Virginia, now worked; and appearances of their existence are familiar in a number of places.

The expediency of a bounty on all this species of coal, of home production, and of premiums on the opening of new mines, under certain qualifications, appears to be worthy of particular examination. The great importance of the article will amply justify a reasonable expense in this way, if it shall

appear to be necessary to, and shall be thought likely to answer, the end.

WOOD

Several manufactures of this article flourish in the United States. Ships are nowhere built in greater perfection, and cabinet wares generally are made little, if at all, inferior to those of Europe. Their extent is such as to have admitted of considerable exportation.

An exemption from duty of the several kinds of wood ordinarily used in these manufactures, seems to be all that is requisite, by way of encouragement. It is recommended by the consideration of a similar policy being pursued in other countries, and by the expediency of giving equal advantages to our own workmen in wood. The abundance of timber, proper for ship-building in the United States, does not appear to be any objection to it. The increasing scarcity and growing importance of that article, in the European countries, admonish the United States to commence, and systematically to pursue, measures for the preservation of their stock. Whatever may promote the regular establishment of magazines of ship timber, is in various views desirable.

SKINS

There are scarcely any manufactories of greater importance than of this article. Their direct and very happy influence upon agriculture, by promoting the raising of cattle of different kinds, is a very material recommendation.

It is pleasing, too, to observe the extensive progress they have made in their principal branches, which are so far matured as almost to defy foreign competition. Tanneries, in particular, are not only carried on as a regular business, in numerous instances, and in various parts of the country, but they constitute, in some places, a valuable item of incidental family manufactures.

Representations, however, have been made, importing the expediency of further encouragement to the leather branch, in two ways: one by increasing the duty on the manufactures of it which are imported; the other, by prohibiting the exportation of bark. In support of the latter, it is alleged, that the price of bark, chiefly in consequence of large exportations, has risen, within a few years, from about three dollars to four and a half per cord.

These suggestions are submitted, rather as intimations which merit consideration, than as matters the propriety of which is manifest. It is not clear that an increase of duty is necessary; and in regard to the prohibitions desired, there is no evidence of any considerable exportation hitherto; and it is most probable, that whatever augmentation of price may have taken place, is to be attributed to an extension of the home demand, from the increase of manufactures, and to a decrease of the supply, in consequence of the progress of settlement, rather than to the quantities which have been exported.

It is mentioned, however, as an additional reason for the prohibition, that one species of the bark usually exported, is in some sort peculiar to the

country, and the material of a very valuable dye, of great use in some other manufactures, in which the United States have begun a competition.

There may also be this argument in favor of an increase of duty. The object is of importance enough to claim decisive encouragement, and the progress which has been made leaves no room to apprehend any inconvenience on the score of supply, from such an increase.

It would be of benefit to this branch, if glue, which is now rated at five per cent., were made the object of an excluding duty. It is already made, in large quantities, at various tanneries, and, like paper, is an entire economy of materials, which, if not manufactured, would be left to perish. It may be placed, with advantage, in the class of articles paying fifteen per cent.

GRAIN

Manufactures of the several species of this article have a title to peculiar favor, not only because they are, most of them, immediately connected with the subsistence of the citizens, but because they enlarge the demand for the most precious products of the soil.

Though flour may with propriety be noticed as a manufacture of grain, it were useless to do it but for the purpose of submitting the expediency of a general system of inspection throughout the ports of the United States, which, if established upon proper principles, would be likely to improve the quality of our flour everywhere, and to raise its reputation in

foreign markets. There are, however, considerations which stand in the way of such an arrangement.

Ardent spirits and malt liquors are, next to flour, the two principal manufactures of grain. The first has made a very extensive, the last a considerable progress in the United States. In respect to both, an exclusive possession of the home market ought to be secured to the domestic manufacturers as fast as circumstances will admit. Nothing is more practicable, and nothing more desirable.

The existing laws of the United States have done much toward attaining this valuable object, but some additions to the present duties on foreign distilled spirits and foreign malt liquors, and perhaps an abatement of those on home-made spirits, would more effectually secure it, and there does not occur any very weighty objection to either.

An augmentation of the duties on imported spirits would favor as well the distillation of spirits from molasses as that from grain; and to secure to the nation the benefit of a manufacture, even of foreign materials, is always of great, though perhaps of secondary importance.

A strong impression prevails in the minds of those concerned in distilleries (including, too, the most candid and enlightened), that greater differences in the rates of duty on foreign and domestic spirits are necessary completely to secure the successful manufacture of the latter, and there are facts which entitle this impression to attention.

It is known that the price of molasses for some years past has been successively rising in the West

India markets, owing partly to a competition which did not formerly exist, and partly to an extension of demand in this country; and it is evident that the late disturbances in those islands, from which we draw our principal supply, must so far interfere with the production of the article as to occasion a material enhancement in price. The destruction and devastation attendant on the insurrection in Hispaniola in particular, must not only contribute very much to that effect, but may be expected to give it some duration. These circumstances, and the duty of three cents per gallon on molasses, may render it difficult for the distillers of that material to maintain with adequate profit a competition with the rum brought from the West Indies, the quality of which is so considerably superior.

The consumption of geneva, or gin, in this country is extensive. It is not long since distilleries of it have grown up among us to any importance. They are now becoming of consequence, but being still in their infancy they require protection.

It is represented that the price of some of the materials is greater here than in Holland, from which place large quantities are brought; the price of labor considerably greater; capitals engaged in the business there much larger than those which are employed here; the rate of profits at which the undertakers can afford to carry it on much less; the prejudices in favor of imported gin strong. These circumstances are alleged to outweigh the charges which attend the bringing of the article from Europe to the United States and the present difference of

duty, so as to obstruct the prosecution of the manufacture with due advantage.

Experiment could, perhaps, alone decide with certainty the justness of the suggestions which are made; but, in relation to branches of manufacture so important, it would seem inexpedient to hazard an unfavorable issue, and better to err on the side of too great than of too small a difference in the particular in question.

It is, therefore, submitted, that an addition of two cents per gallon be made to the duty on imported spirits of the first class of proof, with a proportionable increase on those of higher proof; and that a deduction of one cent per gallon be made from the duty on spirits distilled within the United States, beginning with the first class of proof, and a proportionable deduction from the duty on those of higher proof.

It is ascertained that by far the greatest part of the malt liquors consumed in the United States, are the produce of domestic breweries. It is desirable, and in all likelihood attainable, that the whole consumption should be supplied by ourselves.

The malt liquors at home, though inferior to the best, are equal to a great part of those which have been usually imported. The progress already made is an earnest of what may be accomplished. The growing competition is an assurance of improvement. This will be accelerated by measures tending to invite a greater capital into this channel of employment.

To render the encouragement of domestic brew-

eries decisive, it may be advisable to substitute to the present rates of duty, eight cents per gallon, generally; and it will deserve to be considered as a guard against evasions, whether there ought not to be a prohibition of their importation, except in casks of considerable capacity. It is to be hoped, that such a duty would banish from the market foreign malt liquors of inferior quality, and that the best kind only would continue to be imported, till it should be supplanted by the efforts of equal skill or care at home.

Till that period, the importation, so qualified, would be a useful stimulus to improvement, and, in the meantime, the payment of the increased price for the enjoyment of a luxury, in order to the encouragement of a most useful branch of domestic industry, could not reasonably be deemed a hardship.

As a further aid to manufactures of grain, though upon a smaller scale, the articles of starch, hair-powder, and wafers, may with great propriety be placed among those which are rated at fifteen per cent. No manufactures are more simple, nor more completely within the reach of a full supply from domestic sources; and it is a policy as common as it is obvious, to make them the objects either of prohibitionary duties or of express prohibition.

FLAX AND HEMP

Manufactures of these articles have so much affinity to each other, and they are so often blended,

that they may, with advantage, be considered in conjunction. The importance of the linen branch to agriculture, its precious effects upon household industry, the ease with which the materials can be produced at home, to any requisite extent, the great advances which have been already made in the coarser fabrics of them, especially in the family way, constitute claims of peculiar force to the patronage of government.

This patronage may be afforded in various ways; by promoting the growth of the materials, by increasing the impediments to an advantageous competition of rival foreign articles, by direct bounties, or premiums upon the home manufactures.

1st.—As to promoting the growth of the materials.

In respect to hemp, something has been already done by the high duty upon foreign hemp. If the facilities for domestic production were not unusually great, the policy of the duty on the foreign raw material would be highly questionable, as interfering with the growth or manufactures of it. But making the proper allowances for those facilities, and with an eye to the future and natural progress of the country, the measure does not appear, upon the whole, exceptionable.

A strong wish naturally suggests itself, that some method could be devised, of affording a more direct encouragement to the growth both of flax and hemp; such as would be effectual, and, at the same time, not attended with too great inconveniences. To this end, bounties and premiums offer themselves to consideration, but no modification of them has

yet occurred, which would not either hazard much expense, or operate unequally, in referen the circumstances of different parts of the U and which would not be attended with very difficulties in the execution.

2d.—As to increasing the impediments to a vantageous competition of rival foreign articles.

To this purpose an augmentation of the duti importation is the obvious expedient, which, in re to certain articles, appears to be recommende sufficient reasons.

The principal of these articles is sail-cloth– intimately connected with navigation and def and of which a flourishing manufactory is e lished at Boston, and very promising ones at se other places.

It is presumed to be both safe and advisab place this in the class of articles rated at ten per A strong reason for it results from the consider that a bounty of two pence sterling, per ell, is all in Great Britain, upon the exportation of the cloth manufactured in that kingdom.

It would likewise appear to be good policy to the duty to seven and a half per cent. on the fo ing articles: Drillings, osnaburgs, ticklenb dowals, canvas, brown rolls, bagging, and upo other linens, the first cost of which, at the pla exportation, does not exceed thirty-five cents yard. A bounty of twelve and a half per cent. an average, on the exportation of such or si linens from Great Britain, encourages the m facture of them in that country, and increases

obstacles to a successful competition in the countries to which they are sent.

The quantities of tow and other household linens, manufactured in different parts of the United States, and the expectations which are derived from some late experiments, of being able to extend the use of labor-saving machines, in the coarser fabrics of linen, obviate the danger of inconvenience from an increase of the duty upon such articles, and authorize a hope of speedy and complete success to the endeavors which may be used for procuring an internal supply.

3d.—As to direct bounties or premiums upon the manufactured articles.

To afford more effectual encouragement to the manufacture, and at the same time to promote the cheapness of the article, for the benefit of navigation, it will be of great use to allow a bounty of two cents per yard on all sail-cloth which is made in the United States, from materials of their own growth. This would also assist the culture of those materials. An encouragement of this kind, if adopted, ought to be established for a moderate term of years, to invite to new undertakings, and to an extension of the old. This is an article of importance enough to warrant the employment of extraordinary means in its favor.

COTTON

There is something in the texture of this material which adapts it, in a peculiar degree, to the application of machines. The signal utility of the mill for spinning of cotton, not long since invented in

England, has been noticed in another place; but there are other machines, scarcely inferior in utility, which, in the different manufactories of this article, are employed, either exclusively, or with more than ordinary effect. This very important circumstance recommends the fabrics of cotton, in a more particular manner, to a country in which a defect of hands constitutes the greatest obstacle to success.

The variety and extent of the uses to which the manufactures of this article are applicable, is another powerful argument in their favor. And the faculty of the United States to produce the raw material in abundance, and of a quality which, though alleged to be inferior to some that is produced in other quarters, is nevertheless capable of being used with advantage in many fabrics, and is probably susceptible of being carried by a more experienced culture to much greater perfection, suggests an additional and a very cogent inducement to the vigorous pursuit of the cotton branch in its several subdivisions. How much has been already done has been stated in a preceding part of this report.

In addition to this, it may be announced, that a society is forming, with a capital which is expected to be extended to at least half a million of dollars, on behalf of which, measures are already in train for prosecuting, on a large scale, the making and printing of cotton goods.

These circumstances conspire to indicate the expediency of removing any obstructions which may happen to exist, to the advantageous prosecution of the manufactories in question, and of adding

such encouragements as may appear necessary and proper.

The present duty of three cents per pound, on the foreign raw material, is undoubtedly a very serious impediment to the progress of those manufactories.

The injurious tendency of similar duties, either prior to the establishment or in the infancy of the domestic manufacture of the article, as it regards the manufacture, and their worse than inutility, in relation to the home production of the material itself, have been anticipated, particularly in discussing the subject of pecuniary bounties.

Cotton has not the same pretensions with hemp, to form an exception to the general rule.

Not being, like hemp, a universal production of the country, it affords less assurance of an adequate internal supply; but the chief objection arises from the doubts which are entertained, concerning the quality of the national cotton. It is alleged that the fibre of it is considerably shorter and weaker than that of some other places; and it has been observed, as a general rule, that the nearer the place of growth to the equator, the better the quality of the cotton. That which comes from Cayenne, Surinam, and Demarara, is said to be preferable, even at a material difference of price, to the cotton of the islands.

While a hope may reasonably be indulged, that with due care and attention, the national cotton may be made to approach nearer than it now does to that of regions somewhat more favored by climate; and while facts authorize an opinion that very great

use may be made of it, and that it is a resource which gives greater security to the cotton fabrics of this country, than can be enjoyed by any which depends wholly on external supply, it will certainly be wise, in every view, to let our infant manufactures have the full benefit of the best materials, on the cheapest terms. It is obvious that the necessity of having such materials is proportioned to the unskilfulness and inexperience of the workmen employed, who, if inexpert, will not fail to commit great waste, where the materials they are to work with are of an indifferent kind.

To secure to the national manufactures so essential an advantage, a repeal of the present duty on imported cotton is indispensable.

A substitute for this, far more encouraging to domestic production, will be to grant a bounty on the national cotton, when wrought at a home manufactory; to which a bounty on the exportation of it may be added. Either, or both, would do much more towards promoting the growth of the article, than the merely nominal encouragement, which it is proposed to abolish. The first would also have a direct influence in encouraging the manufacture.

The bounty which has been mentioned, as existing in Great Britain, upon the exportation of coarse linens, not exceeding a certain value, applies also to certain descriptions of cotton goods of similar value.

This furnishes an additional argument for allowing to the national manufactures, the species of encouragement just suggested, and, indeed, for adding some other aid.

One cent per yard, not less than of a given width, on all goods of cotton, or of cotton and linen mixed, which are manufactured in the United States, with the addition of one cent per pound weight of the material, if made of national cotton, would amount to an aid of considerable importance, both to the production and to the manufacture of that valuable article. And it is conceived that the expense would be well justified by the magnitude of the object.

The printing and staining of cotton goods is known to be a distinct business from the fabrication of them. It is one easily accomplished, and which, as it adds materially to the value of the article in its white state, and prepares it for a variety of new uses, is of importance to be promoted.

As imported cottons, equally with those which are made at home, may be the objects of this manufacture, it will merit consideration, whether the whole, or a part of the duty, on the white goods, ought not to be allowed to be drawn in favor of those who print or stain them. This measure would certainly operate as a powerful encouragement to the business; and though it may, in a degree, counteract the original fabrication of the articles, it would probably more than compensate for this disadvantage, in the rapid growth of a collateral branch, which is of a nature sooner to attain to maturity. When a sufficient progress shall have been made, the drawback may be abrogated, and by that time the domestic supply of the articles to be printed or stained will have been extended.

If the duty of seven and a half per cent. on certain

kinds of cotton goods were extended to all goods of cotton, or of which it is the principal material, it would probably more than counterbalance the effect of the drawback proposed, in relation to the fabrication of the article. And no material objection occurs to such an extension. The duty, then, considering all the circumstances which attend goods of this description, could not be deemed inconveniently high; and it may be inferred, from various causes, that the prices of them would still continue moderate.

Manufactories of cotton goods, not long since established at Beverly, in Massachusetts, and at Providence, in the State of Rhode Island, and conducted with a perseverance corresponding with the patriotic motives which began them, seem to have overcome the first obstacles to success: producing corduroys, velverets, fustians, jeans, and other similar articles, of a quality which will bear a comparison with the like articles brought from Manchester. The one at Providence has the merit of being the first introducing into the United States the celebrated cotton mill, which not only furnishes materials for that manufactory itself, but for the supply of private families, for household manufacture.

Other manufactories of the same material, as regular businesses, have also been begun at different places in the State of Connecticut, but all upon a smaller scale than those above-mentioned. Some essays are also making in the printing and staining of cotton goods. There are several small establishments of this kind, already on foot.

WOOL

In a country, the climate of which partakes of so considerable a proportion of winter, as that of a great part of the United States, the woollen branch cannot be regarded as inferior to any, which relates to the clothing of the inhabitants.

Household manufactures of this material are carried on in different parts of the United States, to a very interesting extent; but there is only one branch, which, as a regular business, can be said to have acquired maturity. This is the making of hats.

Hats of wool, and of wool mixed with fur, are made in large quantities, in different States; and nothing seems wanting, but an adequate supply of materials, to render the manufacture commensurate with the demand.

A promising essay, towards the fabrication of cloths, cassimeres, and other woollen goods, is likewise going on at Hartford, in Connecticut. Specimens of the different kinds which are made, in the possession of the Secretary, evince that these fabrics have attained a very considerable degree of perfection. Their quality certainly surpasses anything that could have been looked for in so short a time, and under so great disadvantages; and conspires, with the scantiness of the means, which have been at the command of the directors, to form the eulogium of that public spirit, perseverance, and judgment, which have been able to accomplish so much.

To cherish and bring to maturity this precious embryo, must engage the most ardent wishes and

proportionable regret, as far as the means of doing it may appear difficult or uncertain.

Measures which should tend to promote an abundant supply of wool, of good quality, would probably afford the most efficacious aid that present circumstances permit.

To encourage the raising and improving the breed of sheep, at home, would certainly be the most desirable expedient for that purpose; but it may not be alone sufficient, especially as it is, yet, a problem, whether our wool be capable of such a degree of improvement as to render it fit for the finer fabrics.

Premiums would probably be found the best means of promoting the domestic, and bounties the foreign supply. The first may be within the compass of the institution, hereafter to be submitted. The last would require a specific legislative provision. If any bounties are granted, they ought, of course, to be adjusted with an eye to quality as well as quantity.

A fund for the purpose may be derived from the addition of two and a half per cent. to the present rate of duty on carpets and carpeting; an increase to which the nature of the articles suggests no objection, and which may, at the same time, furnish a motive the more to the fabrication of them at home, towards which some beginnings have been made.

SILK

The production of this article is attended with great facility in most parts of the United States.

Some pleasing essays are making in Connecticut, as well towards that, as towards the manufacture of what is produced. Stockings, handkerchiefs, ribbons, and buttons are made, though as yet but in small quantities.

A manufactory of lace, upon a scale not very extensive, has been long memorable at Ipswich, in the State of Massachusetts.

An exemption of the material from the duty which it now pays on importation, and premiums upon the production to be dispensed under the direction of the institution before alluded to, seem to be the only species of encouragement advisable at so early a stage of the thing.

GLASS

The materials for making glass are found everywhere. In the United States there is no deficiency of them. The sands and stones called *tarso*, which include flinty and crystalline substances generally, and the salts of various plants, particularly of the sea-weed kali, or kelp, constitute the essential ingredients. An extraordinary abundance of fuel is a particular advantage enjoyed by this country for such manufactures. They, however, require large capitals, and involve much manual labor.

Different manufactories of glass are now on foot in the United States. The present duty of twelve and a half per cent. on all imported articles of glass, amounts to a considerable encouragement to those manufactories. If any thing in addition is judged

eligible, the most proper would appear to be a direct bounty on window-glass and black bottles.

The first recommends itself as an object of general convenience; the last adds to that character the circumstance of being an important item in breweries. A complaint is made of great deficiency in this respect.

GUNPOWDER

No small progress has been, of late, made in the manufacture of this very important article. It may, indeed, be considered as already established; but its high importance renders its further extension very desirable.

The encouragements which it already enjoys, are a duty of ten per cent. on the foreign rival article, and an exemption of saltpetre, one of the principal ingredients of which it is composed, from duty. A like exemption of sulphur, another chief ingredient, would appear to be equally proper. No quantity of this article has yet been produced from internal sources. The use made of it in finishing the bottoms of ships, is an additional inducement to placing it in the class of free goods. Regulations for the careful inspection of the article would have a favorable tendency.

PAPER

Manufactories of paper are among those which are arrived at the greatest maturity in the United States, and are most adequate to national supply.

That of paper-hangings, is a branch in which respectable progress has been made.

Nothing material seems wanting to the further success of this valuable branch, which is already protected by a competent duty on similar imported articles.

In the enumeration of the several kinds made subject to that duty, sheathing and cartridge paper have been omitted. These being the most simple manufactures of the sort, and necessary to military supply, as well as ship-building, recommend themselves equally with those of other descriptions, to encouragement, and appear to be as fully within the compass of domestic exertions.

PRINTED BOOKS

The great number of presses disseminated throughout the Union, seem to afford an assurance that there is no need of being indebted to foreign countries for the printing of the books which are used in the United States. A duty of ten per cent., instead of five, which is now charged upon the article, would have a tendency to aid the business internally.

It occurs as an objection to this, that it may have an unfavorable aspect toward literature, by raising the price of books in universal use in private families, schools, and other seminaries of learning. But the difference, it is conceived, would be without effect.

As to books which usually fill the libraries of the wealthier classes and of professional men, such an augmentation of price as might be occasioned by

an additional duty of five per cent., would be too little felt to be an impediment to the acquisition.

And with regard to books which may be specially imported for the use of particular seminaries of learning, and of public libraries, a total exemption from duty would be advisable, which would go far towards obviating the objection just mentioned. They are now subject to a duty of five per cent.

As to the books in most general family use, the constancy and universality of the demand would insure exertions to furnish them at home, and the means are completely adequate. It may also be expected ultimately, in this as in other cases, that the extension of the domestic manufacture would conduce to the cheapness of the article.

It ought not to pass unremarked, that to encourage the printing of books is to encourage the manufacture of paper.

REFINED SUGARS AND CHOCOLATE

Are among the number of extensive and prosperous domestic manufactures.

Drawbacks of the duties upon the materials of which they are respectively made, in cases of exportation, would have a beneficial influence upon the manufacture, and would conform to a precedent which has been already furnished in the instance of molasses, on the exportation of distilled spirits.

Cocoa, the raw material, now pays a duty of one cent per pound, while chocolate, which is a prevailing and very simple manufacture, is comprised

in the mass of articles rated at no more than five per cent.

There would appear to be a propriety in encouraging the manufacture by a somewhat higher duty on its foreign rival, than is paid on the raw material. Two cents per pound on imported chocolate would, it is presumed, be without inconvenience.

The foregoing heads comprise the most important of the several kinds of manufactures which have occurred as requiring, and, at the same time, as most proper for public encouragement; and such measures for affording it as have appeared best calculated to answer the end, have been suggested.

The observations which have accompanied this delineation of objects, supersede the necessity of many supplementary remarks. One or two, however, may not be altogether superfluous.

Bounties are, in various instances, proposed as one species of encouragement.

It is a familiar objection to them that they are difficult to be managed, and liable to frauds. But neither that difficulty nor this danger seems sufficiently great to countervail the advantages of which they are productive when rightly applied. And it is presumed to have been shown that they are, in some cases, particularly in the infancy of new enterprises, indispensable.

It will, however, be necessary to guard, with extraordinary circumspection, the manner of dispensing them. The requisite precautions have been thought of, but to enter into the detail would swell

this report, already voluminous, to a size too inconvenient.

If the principle shall not be deemed inadmissible, the means of avoiding an abuse of it will not be likely to present unsurmountable obstacles. There are useful guides from practice in other quarters.

It shall, therefore, only be remarked here, in relation to this point, that any bounty which may be applied to the manufacture of an article, cannot, with safety, extend beyond those manufactories at which the making of the article is a regular trade. It would be impossible to annex adequate precautions to a benefit of that nature, if extended to every private family in which the manufacture was incidentally carried on; and, being a merely incidental occupation which engages a portion of time that would otherwise be lost, it can be advantageously carried on without so special an aid.

The possibility of a diminution of the revenue may also present itself as an objection to the arrangements which have been submitted.

But there is no truth which may be more firmly relied upon, than that the interests of the revenue are promoted by whatever promotes an increase of national industry and wealth.

In proportion to the degree of these, is the capacity of every country to contribute to the public treasury; and where the capacity to pay is increased, or even is not decreased, the only consequence of measures which diminish any particular resource, is a change of the object. If, by encouraging the manufacture of an article at home, the revenue

which has been wont to accrue from its importation should be lessened, an indemnification can easily be found, either out of the manufacture itself, or from some other object which may be deemed more convenient.

The measures, however, which have been submitted, taken aggregately, will, for a long time to come, rather augment than decrease the public revenue.

There is little room to hope, that the progress of manufactures will so equally keep pace with the progress of population, as to prevent even a gradual augmentation of the product of the duties on imported articles.

As, nevertheless, an abolition in some instances, and a reduction in others, of duties which have been pledged for the public debt, is proposed, it is essential that it should be accompanied with a competent substitute. In order to this, it is requisite that all the additional duties which shall be laid, be appropriated, in the first instance, to replace all defalcations which may proceed from any such abolition or diminution. It is evident, at first glance, that they will not only be adequate to this, but will yield a considerable surplus. This surplus will serve:

First. To constitute a fund for paying the bounties which shall have been decreed.

Secondly. To constitute a fund for the operations of a board to be established, for promoting arts, agriculture, manufactures, and commerce. Of this institution, different intimations have been given in

the course of this report. An outline of a plan for it shall now be submitted.

Let a certain annual sum be set apart, and placed under the management of commissioners, not less than three, to consist of certain officers of the government and their successors in office.

Let these commissioners be empowered to apply the fund confided to them, to defray the expenses of the emigration of artists and manufacturers in particular branches of extraordinary importance; to induce the prosecution and introduction of useful discoveries, inventions, and improvements, by proportionate rewards, judiciously held out and applied; to encourage by premiums, both honorable and lucrative, the exertions of individuals and of classes, in relation to the several objects they are charged with promoting; and to afford such other aids to those objects as may be generally designated by law.

The commissioners to render to the Legislature an annual account of their transactions and disbursements; and all such sums as shall not have been applied to the purposes of their trust, at the end of every three years, to revert to the treasury. It may, also, be enjoined upon them not to draw out the money, but for the purpose of some specific disbursement.

It may, moreover, be of use to authorize them to receive voluntary contributions, making it their duty to apply them to the particular objects for which they may have been made, if any shall have been designated by the donors.

There is reason to believe that the progress of particular manufactures has been much retarded by the want of skilful workmen. And it often happens, that the capitals employed are not equal to the purposes of bringing from abroad workmen of a superior kind. Here, in cases worthy of it, the auxiliary agency of government would, in all probability, be useful. There are also valuable workmen in every branch, who are prevented from emigrating, solely, by the want of means. Occasional aids to such persons, properly administered, might be a source of valuable acquisitions to the country.

The propriety of stimulating by rewards the invention and introduction of useful improvements, is admitted without difficulty. But the success of attempts in this way must evidently depend much on the manner of conducting them. It is probable that the placing of the dispensation of those rewards under some proper discretionary direction, where they may be accompanied by collateral expedients, will serve to give them the surest efficacy. It seems impracticable to apportion, by general rules, specific compensations for discoveries of unknown and disproportionate utility.

The great use which may be made of a fund of this nature, to procure and import foreign improvements, is particularly obvious. Among these, the article of machines would form a most important item.

The operation and utility of premiums have been adverted to, together with the advantages which

have resulted from their dispensation, under the direction of certain public and private societies. Of this, some experience has been had, in the instance of the Pennsylvania Society for the promotion of manufactures and useful arts; but the funds of that association have been too contracted to produce more than a very small portion of the good to which the principles of it would have led. It may confidently be affirmed, that there is scarcely any thing which has been devised, better calculated to excite a general spirit of improvement than the institutions of this nature. They are truly invaluable.

In countries where there is great private wealth, much may be effected by the voluntary contributions of patriotic individuals; but in a community situated like that of the United States, the public purse must supply the deficiency of private resource. In what can it be so useful, as in prompting and improving the efforts of industry? [1]

All which is humbly submitted.

ALEXANDER HAMILTON,
Secretary of the Treasury.

[1] The report on manufactures is, with the exception of the first report on the public credit, the most important state paper written by Hamilton, and to say this is to say a great deal. Unlike most of his reports, it produced no immediate and direct results in legislation, but it laid the foundation of the protective policy in the United States; and was an integral part of that national system of measures which was the pole-star of Hamilton's statemanship. Its principles were all subsequently adopted; its doctrines have prevailed as a rule in the political contests to which the tariff at various periods has given birth, and it has colored and guided the views of our statesmen and the economical and industrial policy of the country for nearly a century. For many years Hamilton had been a close student of political-economical questions. After reading all the earlier writers, he read Adam Smith with great care, and wrote in 1783, while a member of Congress, an extended

HAMILTON TO JEFFERSON

JANUARY 1, 1792.

Mr. Hamilton presents his compliments to Mr. Jefferson. Being engaged in making a comparative

commentary, no longer in existence, upon the *Wealth of Nations*. His training and preparation are shown fully in this report, not only in discussing the protection principle, but in the able treatment of the general theory of taxation. As an exposition of the reasons for the protection of nascent industries—a doctrine accepted by Mill—this report has never been surpassed, and as an argument for the adoption of the protective principle as the true policy for the United States, without reference to other countries, it has never been successfully answered. The question, under very different conditions, is a living one to-day,* and it is therefore desirable to give very briefly the facts which show the rise and the course of the protective policy since the day when Hamilton first developed it for the consideration of the American people.

The question of giving protection to industries came up in the first Congress, and after much debate and constitutional wrangling, what might be called the theory of incidental protection prevailed, and was recognized in legislation. This policy, very mild in its actual application, received an immense impetus from Hamilton's report to the next Congress in 1791; but there was no change in the system for many years to come. In 1800 there was an increase of duties; in 1804 some three per cent. increase over the tariff of 1800, but in both cases it was for purposes of taxation and not avowedly protectionist. Jefferson, in accordance with his general theories of government, was a strict constructionist and a free-trader. Yet, by the Louisiana Purchase, he not only strained to its utmost, but actually violated the Constitution, and he was the author of the most severely protective measure this country has ever known. His embargo was of course laid without any view to protection, but in effect it was the highest kind of absolutely prohibitory tariff, and the sharpest stimulus that could have been applied to nascent industries. Madison was a modern protectionist, not differing materially from Hamilton, and his views are apparent in the tone of his messages and in his strong advocacy, at a later period, of the protective tariff. Henry Clay, too, was now upon the stage of public life, and in the session of 1809–10 made a protectionist speech. The policy was coming nearer and nearer to open and confessed existence. In 1812, just before hostilities were declared, the tariff was

* Written (by the editor) in 1885.

statement of the trade between the United States and France, and between the United States and Great Britain, and being desirous of rendering it as candid as possible, Mr. H. will be obliged to Mr.

again raised—this time about seven per cent. higher than its predecessor. Still it was only for purposes of taxation. The war, however, was in direct continuation of the embargo, and amounted, of course, to prohibitory protection. Thus stimulated the infant industries rapidly increased, and in 1814 Mr. Calhoun made a strong speech in favor of the war duties as protective measures. Two years later, when the country was struggling in a sea of financial difficulties, and the infant industries were paralyzed by the influx of English goods, Mr. Calhoun brought in and carried through the famous tariff of 1816, an open and avowed measure of protection and the beginning of the protective policy. There was another tariff in 1820 in the same direction, another in 1824, and finally the tariff of 1828, known as the "bill of abominations," which was carried through at the instigation of the woollen interests.

Now came a shifting in the political forces. New England, under the lead of Webster, went over finally and definitely to the side of protection, while the South, under the lead of Calhoun, prepared for revolution against it. The embargo was a Southern measure, so was the War of 1812, so was the tariff of 1816. To all alike New England had been opposed, and as the commercial part of the country, she offered a steady resistance to the advance of the protective system. The Southern policy prevailed; the Southern policy built up New England industries, and did not help the South. Finally the interests of New England swayed heavily over to protection, the Middle States and the North generally went with her, and the lines were drawn.

Then the agitation against the tariff began. A bill to somewhat lighten the duties passed in 1832, but the issue had become too deep for such a measure. South Carolina, guided by the champion of protective tariff of 1816, had nullified the existing law. The upshot was the Clay compromise, providing for a twenty-per-cent. annual reduction for ten years. In 1842 the country was again in financial difficulties, the compromise was swept aside, a new tariff bill passed, and the duties were raised twenty per cent. Reviving business and increased prosperity made the tariff of 1842 popular, and to retain their hold upon Pennsylvania the Democrats inscribed on their banners in that State: "Polk and Dallas and the tariff of '42." The tariff of '42 had, of course, the support of the Whigs, but they were defeated, while the Democrats in power soon forgot their Pennsylvanian promises, and the

Jefferson to point out to him the instances in which the regulations of France have made discriminations in favor of the United States as compared with other foreign powers. Those of Great Britain ap-

tariff of 1846 practically neutralized its predecessor. It was a tariff for revenue only, made in accordance with the recommendations of the Secretary of the Treasury, Robert J. Walker, in what the *London Times* called "the only properly free-trade report ever made by an American Minister of Finance." The Mexican War, the discovery of gold, and the darkening clouds of the slavery question, drew men's minds away from the tariff, and the policy of lowering duties was continued until, in Buchanan's time, we had reached practical free-trade. Then came the financial crash of 1857, and public attention began to revert fitfully to the tariff, but of course nothing could be done when the country was distracted by the raging agitation over slavery and the approach of civil war. The advent of the Republican party and the pressing need of funds brought the Morrill tariff of 1861, which was a complete embodiment of the protective principle. There have been heavy reductions of duties in various directions and at various times since then, but the principle of protection has remained predominant. The payment of the debt, the increase of the revenue, and the need of revision and reform in the existing system of duties, have made the tariff again an immediate and pressing issue, and a very living question.

This brief outline suffices to show that Hamilton's policy has been, in the main, the policy of the country, although it has lacked the uniformity and steadiness, and, at times, the moderation which he would have given it. But the importance of his influence in this direction cannot be overlooked or overestimated. Apart from its intrinsic merits as an argument, and apart from the principles it advocates, Hamilton's report on manufactures, especially when the tariff is an immediate issue, is very wholesome reading. Whether a man is a free-trader, a tariff-reformer, or a strong protectionist, he will do well to study this report, for it contains one thoroughly good lesson. It clears the mind from cant. It shows the true way in which this subject should be discussed, from whatever point of view one approaches it. Hamilton always looked facts in the face. He knew that the question of free-trade or protection was purely a question of business expediency, and as such he discussed it. Probably nothing made Carlyle more violent in his denunciations of the "dismal science," than the cant which the Manchester school brought into it, which became well-nigh universal in England. Free-trade was good business policy for

pear by its statutes, which are in the hands of Mr. H., but he is not possessed of the general commercial regulations of France.

Mr. H. also wishes to be informed whether the arrêt of the 9th of May, 1789, mentioned by Mr. J. in the notes to this table, be the same with the ordinance of the Governor-General of St. Domingo, which is at the end of the collection of arrêts which Mr. J. was so obliging as to lend to Mr. H., which is of *that date*.

England, and so far so good, but when its supporters undertook to make a moral question out of it, to elevate it as a fetich which was to cure all human ills, and to hold up the "laissez aller" principle as a sort of religious creed, Carlyle crying in the wilderness revolted. He, like others who had studied history, knew that the waste places of the earth had not been built up, and civilization painfully extracted from barbarism, by "laissez aller" and "laissez faire," and he was nauseated by the humbug with which the whole matter was enveloped. This is why Hamilton's report is good reading for any one. He may have been hopelessly wrong in his views, but at all events he did not cant. He did not attempt to treat a question of profit or loss as if it were the Protestant reformation or the abolition of slavery. He wished to advocate a policy which would pay best for the United States, and he argued his case in plain, business terms. Whether right or wrong in his opinions he was supremely right in his method of discussion, and the sooner his method is adopted by all sides the better, and the nearer we shall be to a proper solution. When free-trade paid, England adopted it, and not one instant sooner. The business sense of the American people is unsurpassed; they have protection because they think it pays, and when they are convinced that free-trade will pay better they will have it instead, and not before.

COMMERCIAL RELATIONS

COMMERCIAL RELATIONS

OUTLINE OF SMITH'S SPEECH ON MADISON'S RESOLUTIONS OF JANUARY 3, 1794

Draft by Hamilton

January, 1794.

THE table which is annexed takes the year 1790 as the proper period to show the commercial policy of France previous to the revolution just terminated. The notes accompanying that table explain the alterations which have since taken place. There is, however, no mention of the expiration of the time limited for the premium on French fish imported into the French colonies, which happened in 1790, because this makes no alteration in the general complexion of the policy of France in this particular. It is usual for greater caution to limit the duration of premiums to a certain period, even where it is supposed that a further continuation may be necessary, and if the premium in question has not been renewed, it affords no proof of an intention to relinquish it, as the situation of France at the time of the cessation, and since, may be presumed to have precluded arrangements affecting the trade of the colonies.

If any have been made, it may be inferred from

Commères' pamphlet, that though the duty on foreign fish has been reduced from five to three livres, the premium on French fish has been raised from ten to twelve, which makes the aggregate of duty and premium, operating as a bounty on French fish, the same as before, namely, fifteen livres.

General Observations

1. The commercial system of Great Britain makes no discriminations to the *prejudice* of the United States as *compared* with other foreign powers.

There is therefore no ground for a complaint on the part of the United States, that the system of Great Britain is particularly *injurious* or *unfriendly* to them.

2. The commercial system of Great Britain makes important discriminations in favor of the United States as compared with other foreign nations. This is exemplified in the instance of tobacco, lumber, pot- and pearl-ash, tar and pitch, pig and bar iron, which, when carried from the United States to Great Britain, are either exempt from duties, which are paid on the same articles brought from other foreign countries, or pay so much less duty as to give them a clear advantage in the competition for the British market. Our vessels in the *direct trade* with Great Britain are in various instances exempted from duties, which are paid by the ships of other nations, and in general are on the same footing in that trade with the vessels of the British colonies. Admission is also given to a variety of the commodities of the United States in the British

West Indies, which is not given to similar commodities of other foreign countries.

There is therefore ground to assert, that the commercial system of Great Britain is more favorable and friendly to the United States than to other foreign countries.

3. The commercial system of France previous to the revolution, made fewer and less important discriminations in favor of the United States, as compared with other foreign nations, than that of Great Britain. In the West Indies our privileges were the same. The same commodities only, and upon the same terms, might be carried thither and brought from thence from and to the United States, which might be carried thither and brought from thence from and to other foreign nations. The discriminations in favor of the United States in direct trade with France, are not known to have extended beyond the articles of fish oils

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and vessels of the build of the United States when *owned by French* subjects, were admitted to naturalization, and so far promoted the building of ships as an article of trade with France. This last discrimination is now abolished, and no new ones have been made in our favor.

There is therefore ground to assert that the commercial system of France towards the United States as compared with other foreign nations, has been and now is less favorable and friendly than that of Great Britain.

Particular Observations

I.—As to flour. This article, previous to the revolution in France, was subject to but a very light duty on its importation there. At present it is free to all the world. But unless material changes take place in the state of France, the United States are likely to derive little benefit from this circumstance.

The ordinary price of flour in France is about $5.66 cents per barrel (of Pennsylvania).

In Pennsylvania it may be stated at [1]
upon an average; the freight to France is [1] ;
other charges amount to about [1] , which
would make the costs and charges of a barrel of American flour in France $6.33 cents; of course it cannot, except on extraordinary occasions, be sent there without loss.

In Great Britain it has been stated that flour was subject to a prohibitory duty till the price there was about 48 shillings the quarter. The flour of the United States can therefore only be carried occasionally to Great Britain as well as to France, but the occasions have hitherto been more frequent in Great Britain than in France.

Accordingly, in the course of the years 1786 and 1788, the whole quantity of flour sent from Pennsylvania to France amounted to 2,396 barrels; that sent to Great Britain, to 828 barrels.

But the act of Parliament of the [1] puts this article upon a worse footing than heretofore, and experience only can decide, whether flour can

[1] These blanks occur in the original, which is rough and incomplete.

be henceforth sent with most advantage to Great Britain or to France.

The quarter, however, which in relation to both nations, it most interests the United States to have access to, as a market for their flour, is the West India Islands. Here the comparison is decidedly in favor of Great Britain. The general system of France is to prohibit the *reception* of our flour in her West India markets—that of Great Britain to *permit it.*

It is true that occasional suspensions of the prohibition take place; but these suspensions being confined to *cases of necessity*, the system of France, *which excludes us as far as possible*, cannot on this account be viewed as less unfavorable to the United States, than if no such suspensions took place.

Flour appears to be the principal staple of the United States. This principal staple is, upon the whole, more favored by the regulations of Great Britain than of France. Accordingly, in the year 1790, the exportations to the British dominions, amounted to $1,534,276; to the French dominions to $1,483,195. The comparison is the stronger in favor of Great Britain, from the circumstance that this year was one of extreme scarcity in France. In ordinary years the difference must be far greater.

II.—As to tobacco. It may be presumed that this is an article of such a nature that it is immaterial to the United States what duty is laid upon it in either of the two countries, if the same duties affect all other imported tobacco. 'T is a case in which neither of the countries produces itself the article, to enter into competition with that of the United

States. The duty, therefore, must essentially fall upon the buyers, not the sellers.

Previous to the French Revolution, there was no import duty in France upon tobacco, but it was under a monopoly of the Farmers General; a situation far more disadvantageous to the United States than any tolerable duty could be, by destroying a free competition among purchasers.

The decree of January, 1791, has laid a duty upon this article, if brought from the United States to France in American vessels, of 25 livres per kental; if brought in French ships, of only 18 livres and 15 sous. The tobacco of the United States has been, and is, upon no better footing than that of some other foreign nations.

In Great Britain, as has been stated, a considerably higher duty is paid on other *foreign* tobacco than on that of the United States, and it may be carried to Great Britain, in vessels of the United States, upon the same terms as in British bottoms, while the ships of other nations, bringing tobacco, are subjected to a greater duty on the tobacco which they bring than the ships of Great Britain.

Although, therefore, there is a higher duty on tobacco in Great Britain than in France, yet as in France the duty is the same on other foreign tobacco as on ours; as in Great Britain a higher duty is charged on other foreign tobacco than upon ours; as the comparative rate, not the quantum, of the duty in either country is the only thing which concerns us, it is evident that our tobacco is much more favored by Great Britain than by France. Indeed

the difference of duty operates as a positive bounty upon the tobacco of the United States.

As it regards our navigation, the comparison is still more striking. Here, too, we are more favored by Great Britain than other countries, while the existing regulation of France is in the degree the most exceptionable to be found in the code of any country. It amounts to a prohibition of carrying our own tobacco to France in our own ships.

Several European nations have aimed at a monopoly of the carrying trade of their colonies, but the spirit has not extended to their home dominions. Slight differences have been made between foreign and national ships in favor of the latter, but a difference amounting to an exclusion of the former is perhaps without example, except in the regulation in question.

The principle of this regulation would prostrate the navigation of the United States more effectually than any which is to be found in the system of any other country.

Hence, in respect to the article of tobacco, the staple of the United States which may be deemed second in importance, the regulations of Great Britain are far more favorable than those of France.

Great Britain took from us in the year 1790, $2,777,808, while France took only $427,746.

Hence also it appears that Great Britain is a far better customer for the article than France.

III.—As to fish and fish oil. The regulations of France as to these articles are incomparably more favorable in their operation than those in Great

Britain, though there is no material difference in principle.

Great Britain lays a prohibitory duty on oil, which excludes all but the finest kinds occasionally, and absolutely prohibits fish.

France lays such duties on the fish and oil of other countries, and grants such premiums and encouragements in relation to the products of her own fisheries, as amount completely to a prohibition, so far as her capacity to supply her own dominions extends.

The duty on foreign fish in the French West Indies, and the premium on French fish, as stated in the table, amount virtually to a bounty on French fish of nearly one hundred per cent. of the value. In France the duty is alone about seventy-five per cent., and it is understood that the premiums and bounties in favor of the French fisheries are enormous.

The distinctions, nevertheless, which have been made in favor of the whale fisheries of the United States have been of material aid to them; but there is reason to apprehend, from the means which have been successfully used to detach our fishermen, and the vast encouragements which are given by the government, that the whale fishery of France is establishing itself on the ruins of that of the United States.

The cod fishery stands on a different footing. Our natural advantages are so great as to render it difficult to supplant us; but as far as we have been able to maintain, in this respect, a competition with the French fisheries in the French markets, it is to

be attributed to their incapacity to supply themselves, which has counteracted the effect of a system manifestly prohibitory in its principle.

The real spirit of the system of France on this head, not only appears from what has been done, but from the manner of doing it.

In August, 1784, the arrêt giving admission to *foreign* fish in the West India markets was passed. In September, 1785, another arrêt was passed, granting a premium of ten livres per kental on French fish. *Seven* days after, so great was the anxiety, another arrêt was passed, raising the duty on foreign fish from *three* to *five* livres. An arrêt of the 29th of December, 1787, grants a right of *storing* for six months in France all the productions of the United States, in order to re-exportation, paying only a duty of one per cent. In February following, another arrêt passed, excepting from this right *all the products of the fisheries*, evidently from a jealousy of our interference with the French fisheries.

A further explanation of the spirit of the French system on this point, is to be found in the passage of a report to the National Assembly, in the year 1789, from the Committees of Agriculture and Commerce. After stating a diminution of the product of the French cod fishery, during the year 1789, the report proceeds thus: "This diminution ought to be attributed to the collusion of the English and free Americans who contrived to disappoint the French fisheries, by finding means to supply us with their fish, while they eluded the payment of the duty imposed on importation, *in order to establish*

a preference in favor of the cod of the French fisheries."

But however similar the *principle* of the French and English regulations may be, in regard to their fisheries, the result to the United States is vastly different.

The dominions of France take of the fisheries of the United States to the extent of $724,224; those of Great Britain, to the extent only of $88,371.

IV.—As to wood, particularly lumber. The regulations of France have not made, and do not make, any distinction as to the articles of this kind in favor of the United States.

Those of Great Britain make material distinctions in favor of the United States and their ships, putting the citizens and ships of the United States, in this respect, upon the same footing as those of their own colonies, as far as regards the European market.

Great Britain is also a much better customer than France for articles of this kind.

The amount in value taken from us by the dominions of the former in 1790 was $622,635; that of the latter, $476,039.

V.—As to rice. This article has stood and now stands upon a better footing in France than in Great Britain, being free in the former country, and subject to a high duty in the latter, and there being no discrimination in either country in favor of the rice of the United States.

It is to be observed, however, that as the article is produced in neither country, and as the rice of the United States is on the same footing in the British

market as that of other countries, the observation made in respect to the duty on tobacco may in some sort be applied to this article.

But it applies with far less force, because tobacco has no competitor, while rice, as far as it is a substitute for bread or vegetables, has competitors in all the articles which fall under either description.

This article, however, stands upon a somewhat better footing in the British than in the French West Indies, being free in the former, and subject to a duty of one per cent. in the latter. The difference, however, is not considerable.

The British dominions took in 1790 of this article, in value, $953,939; the French, $322,926.

VI.—As to grain, namely, wheat, rye, Indian corn, oats. As they respect the European dominions of France and Great Britain, they may be considered nearly in the same light with flour.

All these articles are free in the British West Indies; wheat and rye are prohibited in the French; but Indian corn and oats are admitted upon a duty of one per cent. The result upon the whole is, that the English have been better customers than the French.

The British dominions took of these articles in the year 1790, in value, $685,071; the French, $280,792.

The act of Parliament of
is likely to make a difference hereafter in the British European market. According to that act
But experience alone can determine with certainty the effect.

VII.—As to pot- and pearl-ash. These articles

have stood and still stand upon a better footing by the British regulations than by the French.

By the regulations of France, the pot- and pearl-ash of other countries are upon the same footing with those of the United States.

By the regulations of Great Britain, those of the United States are free, while those of other countries are subject to a duty of about five per cent.

Great Britain, in 1790, took from the United States of these articles, in value, $747,078; France, $20,720.

VIII.—As to indigo. This article (eighth in value of our exports) stands upon decidedly a better footing in the system of Great Britain than in that of the United States. France is herself our competitor in the supply of her own market, and she aims at securing to herself the monopoly of it, by adding to the advantage of a superior quality of her own indigo, as stated by the Secretary of State, the discouragement of ours of double the duty paid on her own. Great Britain admits the article into her home market free of duty. Both countries exclude it from their West India markets. Neither make any distinction for or against us.

In 1790 Great Britain took of this article, in value, $479,530; France, $12,649.

IX.—As to live animals. The regulations of both countries may be considered as pretty equal in respect to these articles; the duty of one per cent. paid in the French West Indies, while none is paid in the English, being of no consequence in relation to articles in which the French themselves can maintain no competition.

The dominions of France took in 1790 of these articles, in value, $352,795; those of Great Britain, $62,415.

X.—As to naval stores, namely, pitch, tar, and turpentine, the regulations of Great Britain are more favorable than those of France; for though the duties are higher in the former than in the latter, yet France places these articles from all countries on the same footing, while England lays higher duties on them when brought from other countries, than when brought from the United States. The difference as remarked in other cases, is a bounty upon the productions of the United States. The rate of duty here is of no consequence for the reason assigned in respect to tobacco.

Great Britain, in 1790, took from us of these articles, $196,832; France, $7,366.

XI.—As to salted provisions. The regulations of France as to these articles are evidently more favorable than those of Great Britain; being tolerated by the former, and prohibited by the latter.

The duties, however, are high, and even in respect to beef, are a serious incumbrance upon the sale with a living profit. In respect to pork, they amount essentially to a prohibition in France, which has great means of internal supply, and in the French West Indies the article is prohibited.

The dominions of France took of these articles in 1790, in value, $318,454; those of Great Britain, only $7,557.

XII.—As to flaxseed. It does not appear that any difference exists in the regulations of the two

countries in respect to this article, but Great Britain is by far the better customer. Her dominions took, in value, in 1790, $219,924; the French, $3,290.

XIII.—As to iron. The regulations of Great Britain are more favorable to the United States, in respect to this article, than those of France; for France admits the iron of other countries upon the same footing with that of the United States, and lays a small duty upon bar iron.

Great Britain admits the iron of the United States *free* from duty, and lays a considerable duty on the article brought from other countries.

Great Britain took from us of this article in to the amount of $196,832; France, to the amount of $2,143.

XIV.—As to ships built in the United States. The regulations of France did favor more the building of ships for sale than those of Great Britain; for ships built in the United States and purchased by the French, were capable of being naturalized in France. This distinction in our favor is now done away. In England ships built in the United States have been and are entitled to be recorded, and being recorded and owned by British subjects, enjoy the same privilege as British-built ships in the trade between the United States and Great Britain.

A general distinction in favor of the United States runs through the regulations of Great Britain in this particular, that most articles of foreign countries brought in foreign ships, pay a higher duty than if brought in British ships; but not so of the same articles if brought in ships of the United States.

In the West India trade of France, the United States stand upon the same footing with other foreign nations; in one instance, perhaps upon a worse, as it regards the operation of the thing—namely, as to salted beef, which, *though foreign*, if brought from France in French ships, is exempted from the duty which is paid on the same article carried from the United States directly to the islands. The proximity of Ireland to France seems to render this an advantage to her over the United States.

In the West India trade of Great Britain, the United States have the peculiar advantage of their commodities being introduced upon the same footing as if brought from the British dominions in America, except as to the article of salt carried in ships of the United States. Here is a distinction in favor of the United States.[1]

NOTE. — Mr. Jefferson's table refers to an arrêt of 9th of May, 1789, as making certain alterations in the trade of the United States with the French West Indies.

But this arrêt (which is merely an ordinance of the Governor-General of St. Domingo) is confined wholly to the *south* part of the island of St. Domingo, on very special reasons relative to the improvement of that particular spot, and with very severe restrictions to prevent an extension. It is no permanent part of the system of France —no part of the general system of the West Indies, and is not known to have received the sanction of the king. It was, besides, passed at a moment of revolution.

[1] This draft of a speech is the only exposition we have of Hamilton's views upon our commercial relations and foreign trade, and is, of course, closely allied with the question of our policy in regard to manufactures. It is little more than a brief, but it is valuable to us from what it indicates and suggests rather than for what it actually is. It is in reality an answer to Jefferson's report on commerce, embodying the policy of the Secretary of State. In January, 1794, the opposition opened their campaign on the question of preference to France as

SHIPS.—This article is to be viewed in a twofold light, as a salable manufacture and as a vehicle to convey the productions of the country. The laws of France at the period to which this table refers permitted vessels built in the United States, when purchased and owned by French citizens, to be naturalized, and thereby enjoy the privileges of French vessels. The laws of Great Britain did not permit the same. Our vessels, owned by our own citizens, in the trade between the United States and France, enjoyed the same privileges with the most favored nations, and not greater. In the trade between the United States and Great Britain, they enjoyed equal privileges with British bottoms, greater than the vessels of other foreign countries in the trade between those countries and Great Britain (certain productions of those countries being subject to higher duties when carried in their own than when carried in British bottoms, which was and is not the case in respect to vessels of the United States carrying their own productions). In the trade between the United States and the French West Indies, our vessels of sixty tons and under might carry thither and bring from thence the articles permitted to be im-

against Great Britain, and Madison, on January 3d, introduced a series of resolutions based on Jefferson's report and proposing duties discriminating against England. It was an attack on the administration from what was deemed advantageous ground. January 13th, Mr. Smith, of South Carolina, replied with the speech of which this is an outline or draft, putting the question on business and commercial principles, and lifting it above national prejudices and resentments. The effect of the argument was very great, and it was published and widely circulated in pamphlet form. The speech is reported in the *Annals of Congress*, 1793–1795, p. 174, and should be compared with the draft. William Smith was an able man, well known in his day. He was a stanch Federalist, and a warm friend and admirer of Hamilton. He was a representative in Congress for the years 1789–1799, and then resigned to accept the mission to Portugal, to which he was appointed by John Adams.

ported and exported—but other foreign vessels enjoyed the same privilege with ours. Between the United States and the British West Indies, our vessels could carry nothing except salt from Turk's Island.

The arrêt of the 29th of December, 1787, gave the citizens of the United States like privileges with French subjects in the Asiatic dominions of France. It is also understood that our citizens enjoyed useless privileges in the Asiatic dominions of Great Britain.

No notice is taken of the trade of exports from France and Great Britain to the United States, because the policy of each country was in that respect nearly similar and unexceptionable. The exceptions made from time to time by the French Colonial Government are not taken notice of—because they were exceptions from the general system of the mother country, founded on the necessity of particular emergencies. The true complexion of a system is to be determined by the general permanent rules which govern it—not by special exceptions from fortuitous circumstances and cases of necessity.

The special authorities upon which the following table has been formed are, with regard to France, the arrêt of the 29th of December, 1787; with regard to the French West Indies, the letters patent of October, 1727, and the arrêts of the 30th of August, 1784, and the 18th and 25th of September, 1785; with regard to Great Britain, the proclamation of the 26th of December, 1783, yearly continued, explained by sundry statutes; with regard to the British West Indies, the Act of Parliament of the 28th of George III., chap. vi.

Comparative Footing of the Commerce of the United States with the Domin-

EXPORTS OF THE UNITED STATES — Arranged according to their respective importance.	FRANCE.					GREAT BRITAIN.				
		DISCRIMINATIONS.					DISCRIMINATIONS.			
		Favor of U. S.		Against U. S.			Favor of U. S.		Against U. S.	
	FOOTING.	By higher duties on like articles of other foreign nations.	By prohibited of like articles of other foreign nations.	By lower duties on like articles of other foreign nations.	By admission of articles of other for. count. prohib. from U. S.	FOOTING.	By higher duties on like articles of other foreign nations.	By prohibited of like articles of other foreign nations.	By lower duties on like articles of other foreign nations.	By admission of articles of other foreign coun. prohib. from U. S.
Bread Stuffs, say Flour	Duty 15. 8d. p. ct., ad valorem	. .	. .	. .	. .	Prohib. duties(b)	. .	. .	. .	. .
Wheat	Do.	. .	. .	. .	. .	Do.	. .	. .	. .	. .
Rye	Do.	. .	. .	. .	. .	Do.	. .	. .	. .	. .
Indian Corn	Do.	. .	. .	. .	. .	Do.	. .	. .	. .	. .
Oats	Do.	. .	. .	. .	. .	Do.	. .	. .	. .	. .
Tobacco	No duty, but under monopoly to the Farmers General	. .	. .	. .	. .	Duty 1s. 3d. p.lb. (c)	3s. 6d p. lb.	. .	. .	. .
Rice	Duty 1s. 8d. per ct., ad val.	. .	. .	. .	. .	Duty 3s. 4d. p.ct.	8s. 10d. p. c.	. .	. .	. .
Wood	Duty 1s. 8d. p. ct.	. .	. .	. .	. .	Free	high & fr. pro. duties. (d)	. .	. .	. .
Fisheries, viz.: Salted Fish	Duty 8 livres per kental (a)	. .	. .	. .	. .	Prohibited	. .	. .	. .	. .
Fish Oil	Duty 7 liv. 10 sous per barrel of 500 lb. (a)	. .	Prohib'd	. .	. .	Duty of 18s. 3d. p tun of 252 gal.	. .	. .	. .	. .
Pot- and Pearl-Ash	1s. 8d. p. ct. ad val.	. .	. .	. .	. .	Free	2s. 3d. p. ct.	. .	. .	. .
Salted Meats, viz.: Beef	Duty 5 liv. p. ken.	. .	. .	. .	. .	Prohibited	. .	. .	. .	. .
Pork	Duty 5 liv. p. ken. in some ports, prohib. in others	. .	. .	. .	. .	Do.	. .	. .	. .	. .
Indigo	Duty 5 liv. p. ken.	. .	. .	. .	. .	Free	. .	. .	. .	. .
Live Animals	. . . . .	. .	. .	. .	. .	. . . . .	. .	. .	. .	. .
Flax-Seed	Duty 1s. 8d. per ct., ad val.	. .	. .	. .	. .	Do.	. .	. .	. .	. .
Naval Stores, viz.: Tar and Pitch	Duty 2¼d. p. ct., ad val.	. .	. .	. .	. .	Duty 11s. per last	12s. 4d. p. ct.	. .	. .	. .
Turpentine	Do.	. .	. .	. .	. .	Duty 2s. 3d. p. ct. int	12s. 9d. p. ct.	. .	. .	. .
Rosin	Do.	. .	. .	. .	. .	Duty 1s. 6d. p. ct. int.	2s. 4d. p. ct.	. .	. .	. .
Iron	. . . . .	. .	. .	. .	. .	. . . . .	. .	. .	. .	. .
Bar Iron	Do.	. .	. .	. .	. .	Free	56s. 2d. 67s. 2. p. 3	. .	. .	. .
Pig Iron	Do.	. .	. .	. .	. .	Free	56s. 6 p. 3	. .	. .	. .

In all cases where nothing is inserted in a column under the

[1] This supplementary paper helps to fill up the outline of the speech of Wm. Smith the figures cannot be vouched for, as they were supplied by the editor from that speech

ions of France and Great Britain prior to the pending Revolution of France.[1]

FRENCH WEST INDIES.					BRITISH WEST INDIES.					
	DISCRIMINATIONS.					DISCRIMINATIONS.				
	Favor of U. S.		Against U. S.			Favor of U. S.		Against U. S.		
POOTING.	By higher duties on like articles of other foreign nations.	By prohibited of like articles of other foreign nations.	By lower duties on like articles of other coun. pro. from U. S.	By admission of articles of other foreign coun. prohib. from U. S.	POOTING.	By higher duties on like articles of other foreign nations.	By prohibited of like articles of other foreign nations.	By lower duties on like articles of other foreign nations.	By admission of articles of other foreign coun. prohib. from U. S.	REMARKS.
Prohibited . .	. .	. .	. .	. .	Free . . .	. .	Pro'd	. .	. .	(*a*) It is known (though data for stating them precisely are wanting), that high premiums on French fish coöperated with the high duty on ours to exclude us, as far as possible, from the market of France. (*b*) Great Britain has two scales of duties, one high, the other low; the former prohibitory, the latter not so; but these last apply only when the price of the British article, by scarcity or extraordinary demands, is particularly high; the rate was 48*s.* str. the quarter, but a late act has increased it. The same act gives a right of deposit or storing, without paying the high duties, with permission to export free from duties and with the option of waiting for the market price to arrive at the point at which the low duties take place. The same system essentially extends to other kinds of grain. (*c*) The rates mentioned in this and the adjoining column are sterling money. (*d*) These duties on several kinds of wood are as follows: Oak boards from 32*s.* 10*d.* to 105*s.* 8*d.* the 120. Ditto planks, 19*s.* the 50 cubic feet. Ditto timber, 9*s.* 11*d.* the 50 cubic feet. Deals from 53*s.* to 238*s.* the 120. Staves from 4*s.* to 17*s.* 6*d.* the 120. Timber generally 6*s.* 8*d.* the 50 cubic feet.
1 per ct., ad val.	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Prohibited . .	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Duty 1 p.ct.ad val	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Duty 1 p.ct.ad val	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Duty 5 liv. per kental, with a bounty of 10 liv. on French fish	. .	. .	. .	. .	Prohibited .	. .	. .	. .	. .	
Prohibited . .	. .	. .	. .	. .	Do. . .	. .	. .	. .	. .	
Prohibited . .	. .	. .	. .	. .	Do. . .	. .	. .	. .	. .	
1 p.ct.ad val. and 5 liv. p kental	. .	. .	. .	. .	Do. . .	. .	. .	. .	. .	
Prohibited . .	. .	. .	. .	. .	Do. . .	. .	. .	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . .	. .	. .	. .	. .	
1 per ct. ad val.	. .	. .	. .	. .	Free . . .	. .	. .	. .	. .	
Prohibited . .	. .	. .	. .	. .	Prohibited .	. .	. .	. .	. .	
Duty 1 p.ct.ad val	. .	. .	. .	. .	Free . . .	. .	Pro'd	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . . .	. .	Do.	. .	. .	
. . . . .	. .	. .	. .	. .	. . . . .	. .	. .	. .	. .	
Prohibited . .	. .	. .	. .	. .	Prohibited .	. .	. .	. .	. .	
Do. . . .	. .	. .	. .	. .	Do. . .	. .	. .	. .	. .	

word " Discriminations " it is to be understood that there are none.

on the Madison resolutions. Like the main draft it is incomplete—and the accuracy of to fill up the blanks. They are believed to be correct.

Comparative Footing of the Commerce of the United States with the Dominions of France and Great Britain prior to the pending Revolution of France.

IMPORTS FROM THE FRENCH AND ENGLISH WEST INDIES INTO THE UNITED STATES.	FRENCH WEST INDIES.					BRITISH WEST INDIES.				
		DISCRIMINATIONS.					DISCRIMINATIONS.			
		Favor of U. S.		Against U. S.			Favor of U. S.		Against U. S.	
	FOOTING.	By higher duties on like articles of other foreign nations.	By prohibited of like articles of other foreign nations.	By lower duties on like articles of other for. coun. pro. from U. S.	By admission of articles of other foreign coun. prohib. from U. S.	FOOTING.	By higher duties on like articles of other foreign nations.	By prohibited of like articles of other foreign nations.	By lower duties on like articles of other foreign nations.	By admission of articles of other foreign coun. prohib. from U. S.
							Pro. to other for. co. ex. spec., which is ob. in En.			
Sugar	Prohibited									
Rum and Cassia	Duty 1 p.ct.ad val									
Molasses	Do.					Free from Grenada and Jamaica				
							Prohib. to be sent to other for. co.			
Coffee	Prohibited					4½d p.c. duty from other islands.				
Cocoa	Do.						Do.			
Ginger	Do.						Do.			
Pimento	Do.						Do.			
Salt	Do.					May be brought from Turk's Island in vessels of the U. S., paying duty of 2s.6d. str.p.ton				
Other productions	Do.					Prohibited				

FOREIGN RELATIONS

FOREIGN RELATIONS

SPEECH ON THE TREATY OF PARIS[1]

Wednesday, March 19, 1783.

MR. HAMILTON urged the propriety of proceeding with coolness and circumspection. He thought it proper, in order to form a right judgment of the conduct of our ministers, that the views of the French and British courts should be examined. He admitted it as not improbable, that it had been the policy of France to procrastinate the definite acknowledgment of our independence on the part of Great Britain, in order to keep us more knit to herself, and until her own interests could be negotiated. The arguments, however, urged by our ministers on this subject, although strong, were not conclusive, as it was not certain that this policy, and not a desire of excluding obstacles to peace, had produced the opposition of the French court to our demands. Caution and vigilance, he thought, were justified by the appearance, and that alone. But compare this policy with that of Great Britain; survey the past cruelty and present duplicity of her councils; behold her watching every occasion and trying every

[1] This speech was delivered in Congress during the debate on the treaty of peace which concluded the war for independence.—See *Madison Papers*, i., 394.

project for dissolving the honorable ties which bind the United States to their ally, and then say on which side our resentments and jealousies ought to lie.

With respect to the instructions submitting our ministers to the advice of France, he had disapproved it uniformly since it had come to his knowledge, but he had always judged it improper to repeal it. He disapproved highly of the conduct of our ministers in not showing the preliminary articles to our ally before they signed them, and still more so of their agreeing to the separate article. This conduct gave an advantage to the enemy, which they would not fail to improve for the purpose of inspiring France with indignation and distrust of the United States. He did not apprehend (with Mr. Mercer) any danger of a coalition between France and Great Britain against America, but foresaw the destruction of mutual confidence between France and the United States which would be likely to ensue, and the danger which would result from it in case the war should be continued. He observed that Spain was an unwise nation, her policy narrow and jealous, her king old, her court divided, and the heir apparent notoriously attached to Great Britain. From these circumstances he inferred an apprehension that when Spain should come to know the part taken by America with respect to her, a separate treaty of peace might be resorted to. He thought a middle course best with respect to our ministers; that they ought to be commended in general, but that the communication of the separate article ought

to take place. He observed that our ministers were divided as to the policy of the court of France, but that they were all agreed in the necessity of being on the watch against Great Britain. He apprehended that if the ministers were to be recalled or reprehended that they would be disgusted, and head and foment parties in this country. He observed, particularly with respect to Mr. Jay, that, although he was a man of profound sagacity and pure integrity, yet he was of a suspicious temper, and that this trait might explain the extraordinary jealousies which he professed. He finally proposed that the ministers should be commended, and the separate article communicated. This motion was seconded by Mr. Osgood, as compared, however, with the proposition of the Secretary for Foreign Affairs, and so far only as to be referred to a committee.

Monday, March 24th.[1]

Mr. Hamilton said that whilst he despised the man who would enslave himself to the policy even of our friends, he could not but lament the overweening readiness which appeared in many to suspect every thing on that side, and to throw themselves into the bosom of our enemies. He urged the necessity of vindicating our public honor by renouncing that concealment to which it was the wish of so many to make us parties.[2]

[1] See *Madison Papers*, i., 411.

[2] These two speeches show that Hamilton's natural inclination was toward France, a significant commentary on Jefferson's pet accusation that Hamilton was "British" in feeling.

LETTERS FROM PHOCION [1]

To the Considerate Citizens of New York, on the Politics of the Times, in Consequence of the Peace

1784

LETTER I

While not only every personal artifice is employed by a few heated and inconsiderate spirits, to practise upon the passions of the people, but the public papers are made the channel of the most inflammatory and pernicious doctrines, tending to the subversion of all private security and genuine liberty, it would be culpable in those who understand and value the true interests of the community to be silent spectators. It is, however, a common observation, that men, bent upon mischief, are more active in the pursuit of their object than those who aim at doing good. Hence it is, in the present moment, we see the most industrious efforts made to violate the Constitution of this State, to trample upon the rights of the subject, and to chicane or in-

[1] These letters are inserted here because they are largely devoted to a discussion of the treaty with England, and our relations with that country. Feeling in New York against those who had been Tories ran very high and Clinton threw all his weight into the scale against them. Bills were introduced to disfranchise them forever, and to confiscate their property; while there was still another to confiscate the property of the Society for the Propagation of the Gospel. Against these measures, which were in violation of the treaty and of a good and generous policy, Hamilton determined to protest, and in order to check the current of popular feeling, and bring about, if possible, more moderate, wiser, and more magnanimous counsels, he wrote the papers signed "Phocion," an act requiring much courage in the existing condition of popular feeling. These two essays were originally published in pamphlet form.

fringe the most solemn obligations of treaty; while dispassionate and upright men almost totally neglect the means of counteracting these dangerous attempts. A sense of duty alone calls forth the observations, which will be submitted to the good sense of the people, in this paper, from one who has more inclination than leisure to serve them; and who has had too deep a share in the common exertions in this Revolution, to be willing to see its fruits blasted by the violence of rash or unprincipled men, without, at least, protesting against their designs.

The persons alluded to pretend to appeal to the spirit of Whigism; while they endeavor to put in motion all the furious and dark passions of the human mind. The spirit of Whigism is generous, humane, beneficent, and just. These men inculcate revenge, cruelty, persecution, and perfidy. The spirit of Whigism cherishes legal liberty, holds the rights of every individual sacred, condemns or punishes no man without regular trial and conviction of some crime declared by antecedent laws; reprobates equally the punishment of the citizen by arbitrary acts of legislation, as by the lawless combinations of unauthorized individuals; while these men are advocates for expelling a large number of their fellow-citizens unheard, untried; or, if they cannot effect this, are for disfranchising them, in the face of the Constitution, without the judgment of their peers, and contrary to the law of the land.

The thirteenth article of the Constitution declares, "that no member of the State shall be *disfranchised*, or *defrauded of any of the rights or privileges*

sacred to the subjects of this State by the Constitution, unless *by the law of the land or the judgment of his peers.*" If we inquire what is meant by the law of the land, the best commentators will tell us, that it means *due process of law; that is by indictment or presentment of good and lawful men,*[1] and trial and conviction in consequence.

It is true, that *in England*, on extraordinary occasions, attainders for high treason, by act of Parliament, have been practised; but many of the ablest advocates for civil liberty have condemned this practice; and it has commonly been exercised with great caution upon individuals only by name, never against *general descriptions* of men. The sense of our Constitution on this practice, we may gather from the forty-first article, where all attainders, other than for crimes committed during the late war, are forbidden.

If there had been no treaty in the way, the Legislature might, by *name*, have attainted particular persons of high treason for crimes committed during the war; but, independent of the treaty, it could not, and cannot, without tyranny, disfranchise or punish whole classes of citizens by general descriptions, without trial and conviction of offences known by laws previously established, declaring the offence and prescribing the penalty.

This is a dictate of natural justice, and a fundamental principle of law and liberty.

Nothing is more common than for a free people, in times of heat and violence, to gratify momentary

[1] Coke upon Magna Charta, chap. 29, page 50.

passions, by letting into the government, principles and precedents which afterwards prove fatal to themselves. Of this kind is the doctrine of disqualification, disfranchisement, and banishment, by acts of Legislature. The dangerous consequences of this power are manifest. If the Legislature can disfranchise any number of citizens at pleasure, by general descriptions, it may soon confine all the votes to a small number of partisans, and establish an aristocracy or an oligarchy. If it may banish at discretion all those whom particular circumstances render obnoxious, without hearing or trial, no man can be safe, nor know when he may be the innocent victim of a prevailing faction. The name of liberty applied to such a government would be a mockery of common sense.

The English Whigs, after the Revolution, from an overweening dread of popery and the Pretender, from triennial, voted the Parliament septennial. They have been trying, ever since, to undo this false step in vain, and repenting the effects of their folly in the over-grown power of the new family. Some imprudent Whigs among us, from resentment to those who have taken the opposite side (and many of them from worse motives), would corrupt the principles of our government, and furnish precedents for future usurpations on the rights of the community.

Let the people beware of such counsellors. However a few designing men may rise in consequence, and advance their private interests by such expedients, the people, at large, are sure to be the losers,

in the event, whenever they suffer a departure from the rules of general and equal justice, or from the true principles of universal liberty.

These men not only overleap the barriers of the Constitution without remorse, but they advise us to become the scorn of nations, by violating the solemn engagements of the United States.

They endeavor to mould the treaty with Great Britain into such forms as pleases them, and to make it mean any thing or nothing, as suits their views. They tell us, that all the stipulations, with respect to the Tories, are merely that Congress will recommend, and the States may comply or not, as they please.

But let any man of sense and candor read the treaty, and it will speak for itself. The fifth article is indeed recommendatory; but the sixth is as positive as words can make it. "*There shall be* no future confiscations made, nor prosecutions commenced against any person or persons, for or by reason of the part which he or they may have taken in the present war; and no person shall, on that account, suffer any future loss or damage, either in his person, liberty, or property."

As to the restoration of confiscated property, which is the subject of the fifth article, the States may restore or not, as they think proper, because Congress engage only to recommend; but there is not a word about recommendation in the sixth article.

Quotations are made from the debates in Parliament, to prove that the whole is understood as

recommendatory; but the expressions in those quotations turn altogether upon those persons who have been actually proscribed, and their property confiscated; they have no relation to those who come under the sixth article, or who might be the objects of future prosecution or punishment. And to this it may be added, that it is absurd and inadmissible in fair reasoning, to combat the plain, authentic language of solemn treaty by loose recitals of debates in newspapers.

The sound and ingenious construction of the two articles, taken collectively, is this: That where the property of any persons, other than those who have been in arms against the United States, had been actually confiscated, and themselves proscribed, then Congress are to recommend a restoration of estates, rights, and properties; and, with respect to those who had been in arms, they are to recommend permission for them to remain a twelvemonth in the country, to solicit a like restoration; but with respect to all those who were not in this situation, and who had not already been the objects of confiscation and banishment, they were to be absolutely secured from all future injury, to person, liberty, or property.

To say that this exemption from positive injury, does not imply a right to live among us as citizens, is a pitiful sophistry; it is to say that the banishment of a person from his country, connections, and resources (one of the greatest punishments that can befall a man), is no punishment at all.

The meaning of the word liberty has been con-

tested. Its true sense must be, the enjoyment of the common privileges of subjects under the same government. There is no middle line of just construction between this sense and a mere exemption from personal imprisonment! If the last were adopted, the stipulation would become nugatory; and, by depriving those who are the subjects of it, of the protection of government, it would amount to a virtual confiscation and banishment; for they could not have the benefit of the laws against those who should be aggressors.

Should it be said, that they may receive protection without being admitted to a full enjoyment of the privileges of citizens; this must be either matter of right under the treaty, or matter of grace in the government. If the latter, the government may refuse it; and then the objection presents itself, that the treaty would, by this construction, be virtually defeated; if matter of right, then it follows that more is intended by the word liberty than a mere exemption from imprisonment; and where shall the line be drawn? not a capricious and arbitrary line, but one warranted by rational and legal construction?

To say that, by espousing the cause of Great Britain, they became aliens, and that it will satisfy the treaty to allow them the same protection to which aliens are entitled, is to admit that subjects may, at pleasure, renounce their allegiance to the State of which they are members, and devote themselves to a foreign jurisdiction; a principle contrary to law and subversive of government. But even

this will not satisfy the treaty; for aliens cannot hold real property under our government; and if they are aliens, all their real estates belong to the public. This will be, to all intents and purposes, a confiscation of property. But this is not all. How does it appear that the persons who are thus to be stripped of their citizenship, have been guilty of such an adherence to the enemy, as, in legal contemplation, amounts to a crime? Their merely remaining in their possessions, under the power of the conqueror, does not imply this, but is excepted by the laws and customs of all civilized nations. To adjudge them culpable, they must be first tried and convicted; and this the treaty forbids. These are the difficulties involved, by recurring to subtle and evasive, instead of simple and candid, construction, which will teach us, that the stipulations in the treaty amount to an amnesty and act of oblivion.

There is a very simple and conclusive point of view in which this subject may be placed. No citizen can be deprived of any right which the citizens in general are entitled to, unless forfeited by some offence. It has been seen that the regular and constitutional mode of ascertaining whether this forfeiture has been incurred, is by legal process, trial, and conviction. This *ex vi termini* supposes prosecution. Now, consistent with the treaty, there can be no future prosecution for any thing done on account of the war. Can we then do, by act of Legislature, what the treaty disables us from doing by due course of law? This would be to imitate the

Roman general, who, having promised Antiochus to restore half his vessels, caused them to be sawed in two before their delivery; or the Platæans, who, having promised the Thebans to restore their prisoners, had them first put to death, and returned them dead.

Such fraudulent subterfuges are justly considered more odious than an open and avowed violation of treaty.

When these posture-masters in logic are driven from this first ground of the meaning of the treaty, they are forced to that of attacking the right of Congress to make such a stipulation, and arraigning the impudence of Great Britain in attempting to make terms for our own subjects. But here, as everywhere else, they are only successful in betraying their narrowness and ignorance. Does not the act of Confederation place the exclusive right of making war and peace in the United States in Congress? Have they not the sole power of making treaties with foreign nations? Are not these among the first rights of sovereignty? And does not the delegation of them to the general Confederacy so far abridge the sovereignty of each particular State? Would not a different doctrine involve the contradiction of *imperium in imperio?* What reasonable limits can be assigned to these prerogatives of the Union, other than the general safety and the *fundamentals* of the Constitution? Can it be said, that a treaty for arresting the future operations of positive acts of Legislature, and which has indeed no other effect than that of a pardon for past offences committed

against these acts, is an attack upon the fundamentals of the State Constitutions? Can it be denied that the peace which was made, taken collectively, was manifestly for the general good—that it was even favorable to the solid interests of this country, beyond the expectation of the most sanguine? If this cannot be denied—and none can deny it who know either the value of the objects gained by the treaty, or the necessity these States were under at the time of making peace—it follows, that Congress and their ministers acted wisely in making the treaty which has been made; and it follows from this, that these States are bound by it, and ought religiously to observe it.

The *uti possidetis, each party to hold what it possesses*, is the point from which nations set out in framing a treaty of peace. If one side gives up a part of its acquisitions, the other side renders an equivalent in some other way. What is the equivalent given to Great Britain for all the important concessions she has made? She has surrendered the capital of this State and its large dependencies. She is to surrender our immensely valuable posts on the frontier; and to yield to us a vast tract of western territory, with one half of the lakes, by which we shall command almost the whole fur trade. She renounces to us her claim to the navigation of the Mississippi, and admits us to share in the fisheries, even on better terms than we formerly enjoyed it. As she was in possession, by right of war, of all these objects, whatever may have been our original pretensions to them, they are, by the laws of nations,

to be considered as so much given up on her part. And what do we give in return? We stipulate—that there shall be no future injury to her adherents among us. How insignificant the equivalent in comparison with the acquisition! A man of sense would be ashamed to compare them; a man of honesty, not intoxicated with passion, would blush to lisp a question of the obligation to observe the stipulation on our part.

If it be said that Great Britain has only restored to us what she had unjustly taken from us, and that therefore we are not bound to make compensation; this admits of several answers: Firstly—That the fact is not true; for she has ceded to us a large tract of country to which we had even no plausible claim. Secondly—That however the principle of the objection might have been proper, to prevent our promising an equivalent, it comes too late after the promise has been made. Thirdly—That as to the external effects of war, the voluntary law of nations knows no distinction between the justice or injustice of the quarrel, but in the treaty of peace puts the contracting parties upon an equal footing; which is a necessary consequence of the independence of the nations; for, as they acknowledge no common judge, if, in concluding peace, both parties were not to stand upon the same ground of right, there never could be an adjustment of differences, or an end of war. This is a settled principle.

Let us examine the pretext upon which it is disputed. Congress, say our political jugglers, have no right to meddle with our internal police. They

would be puzzled to tell what they mean by the expression. The truth is, it has no definite meaning; for it is impossible for Congress to do a single act which will not, directly or indirectly, affect the internal police of every State. When, in order to procure privileges of commerce to the citizens of these States, in foreign countries, they stipulate a reciprocity of privileges here, does not such an admission of the subjects of foreign countries to certain rights within these States, operate immediately upon their internal police? And were this not done, would not the power of making commercial treaties, vested in Congress, become a mere nullity? In short, if nothing was to be done by Congress that would affect our internal police, in the large sense in which it has been taken, would not all the powers of the Confederation be annihilated, and the Union dissolved?

But, say they again, such a thing was never heard of, as an indemnity for traitorous subjects stipulated in a treaty of peace. History will inform them that it is a stipulation often made. Two examples shall be cited: The Treaty of Munster, which put an end to the differences between Spain and the United Provinces, after the revolution of those Provinces; the treaty concluded, in seventeen hundred and thirty-eight, between the Empire, France, Spain, Poland, and several other Powers, called the Christian Peace. The war which preceded this treaty was one of the most complicated in which Europe had been engaged: the succession to the Spanish monarchy, and the right to the throne of Poland,

had been included in it; Stanislaus having been obliged to abdicate the crown. Different parts of the nations concerned had taken opposite sides. Many of the German princes had been in arms against the Empire, to which they owed obedience. This treaty not only mutually stipulates indemnity to the subjects of the respective Powers, but even restitution of *property* and *offices*. The Emperor, who contracted in behalf of the Empire, has much less extensive powers, as head of the Empire, than Congress, as representative of the United States.

But let it be admitted that Congress had no right to enter into this article; do not equity and prudence strongly urge the several States to comply with it? We have, in part, enjoyed the benefit of the treaty; in consequence of which, we, of this State, are now in possession of our capital; and this implies an obligation in conscience, to perform what is to be performed on our part. But there is a consideration which will, perhaps, have more force with men who seem to be superior to conscientious obligations: it is that the British are still in possession of our frontier posts, which they may keep in spite of us; and that they may essentially exclude us from the fisheries, if they are so disposed. Breach of treaty on our part will be a just ground for breaking it on theirs. The treaty must stand or fall together. The wilful breach of a single article annuls the whole.[1] Congress are appointed by the Constitution, to manage our foreign concerns. The nations with whom they contract are to suppose

[1] Vatel, book 4, chapter 4, § 47. Grotius, book 3, chapter 19, § 14.

they understand their own powers, and will not exceed them. If they do it in any instance, and we think it proper to disavow the act, it will be no apology with those with whom they contract, that they had exceeded their authority. One side cannot be bound, unless the obligation is reciprocal.

Suppose, then, Great Britain should be induced to refuse a further compliance with the treaty, in consequence of a breach of it on our part; what situation should we be in? Can we renew the war to compel a compliance? We know, and all the world knows, it is out of our power. Will those who have heretofore assisted us take our part? Their affairs require peace as well as ours; and they will not think themselves bound to undertake an unjust war, to regain to us rights which we have forfeited by a childish levity, and a wanton contempt of public faith.

We should then have sacrificed important interests to the little, vindictive, selfish, mean passions of a few. To say nothing of the loss of territory, of the disadvantage to the whole commerce of the Union, by obstructions in the fisheries, this State would lose an annual profit of more than fifty thousand pounds *sterling* from the fur trade.

But not to insist on possible inconveniences, there is a certain evil which attends our intemperance: a loss of character in Europe. Our ministers write, that our conduct, hitherto, in this respect, has done us infinite injury, and has exhibited us in the light of a people destitute of government, on whose engagements of course no dependence can be placed.

The men who are at the head of the party which contends for disqualification and expulsion, endeavor to enlist a number of people on their side by holding out motives of private advantage to them. To the trader they say: "You will be overborne by the large capitals of the Tory merchants"; to the mechanic: "Your business will be less profitable, your wages less considerable, by the interference of Tory workmen." A man, the least acquainted with trade, will indeed laugh at such suggestions. He will know that every merchant, or trader, has an interest in the aggregate mass of capital, or stock in trade; that what he himself wants in capital, he must make up in credit; that unless there are others who possess large capitals, this credit cannot be had; and that, in the diminution of the general capital of the State, commerce will decline, and his own prospects of profit will diminish.

These arguments, if they were understood, would be conclusive with the mechanic: "There is already employment enough for all the workmen in the city, and wages are sufficiently high. If you could raise them by expelling those who remained in the city, and whom you consider as rivals, the extravagant price of wages would have two effects; it would draw persons to settle here, not only from other parts of this State, but from the neighboring States. Those classes of the community who are to employ you, will make a great many shifts rather than pay the exorbitant prices you demand; a man will wear his old clothes so much longer, before he gets a new suit; he will buy imported shoes cheap rather than

those made here at so dear a rate; the owner of a house will defer the repairs as long as possible; he will only have those which are absolutely necessary made; he will not attend to elegant improvement: and the like will happen in other branches. These circumstances will give less employment, and in a very little time bring back your wages to what they now are, and even sink them lower. But this is not all. You are not required merely to expel your rival mechanics, but you must drive away the rich merchants and others who are called Tories, to please your leaders, who will persuade you they are dangerous to your liberty (though, indeed, they only mean their own consequence). By this conduct you will drive away the principal part of those who have the means of becoming large undertakers. The carpenters and masons, in particular, must be content with patching up the houses already built, and building little huts upon the vacant lots, instead of having profitable and durable employment in erecting large and elegant edifices."

There is a certain proportion, or level, in all the departments of industry. It is folly to think to raise any of them, and keep them long above their natural height. By attempting to do it, the economy of the political machine is disturbed, and till things return to their proper state, the society at large suffers. The only object of concern with an industrious artisan, as such, ought to be, that there may be plenty of money in the community, and a brisk commerce to give it circulation and activity. All attempts at profit, through the medium of

monopoly, or violence, will be as fallacious as they are culpable.

But, say some, to suffer these wealthy disaffected men to remain among us will be dangerous to our liberties. Enemies to our government, they will be always endeavoring to undermine it, and bring us back to the subjection of Great Britain. The safest reliance of every government is on men's interests. This is a principle of human nature, on which all political speculation, to be just, must be founded. Make it the interest of those citizens who, during the Revolution, were opposed to us, to be friends to the new government, by affording them not only protection, but a participation in its privileges, and they will undoubtedly become its friends. The apprehension of returning under the dominion of Great Britain is chimerical: if there is any way to bring it about, the measures of those men against whose conduct these remarks are aimed, lead directly to it. A disorderly, or a violent government may disgust the best citizens, and make the body of the people tired of their independence.

The embarrassed and exhausted state of Great Britain, and the political system of Europe, render it impossible for her ever to reacquire the dominion of this country. Her former partisans must be convinced of this, and abandon her cause as desperate. They will never be mad enough to risk their fortunes a second time, in the hopeless attempt of restoring her authority; nor will they have any inclination to do it, if they are allowed to be happy under the government of the society in which they live. To make

it practicable, if they should be so disposed, they must not only get the government of this State but of the United States into their hands. To suppose this possible is to suppose that a majority of the numbers, property, and abilities of the United States has been and is in opposition to the Revolution. Its success is a clear proof that this has not been the case, and every man of information among us knows the contrary. The supposition itself would show the absurdity of expelling a small number from the city, which would constitute so insignificant a proportion of the whole, as, without diminishing their influence, would only increase their disposition to do mischief. The policy in this case would be evident of appealing to their interests rather than to their fears.

Nothing can be more ridiculous than the idea of expelling a few from this city and neighborhood, while there are numbers in different parts of this and other States who must necessarily partake in our governments, and who can never expect to be the objects of animadversion or exclusion. It is confirming *many* in their enmity and prejudices against the State to indulge our enmity and prejudices against a few.

The idea of suffering the Tories to live among us under disqualifications is equally mischievous and absurd. It is necessitating a large body of citizens in the State to continue enemies to the government, ready at all times, in a moment of commotion, to throw their weight into that scale which meditates a change, whether favorable or unfavorable to public liberty.

Viewing the subject in every possible light, there is not a single interest of the community but dictates moderation rather than violence. That honesty is still the best policy; that justice and moderation are the surest supports of every government, are maxims which, however they may be called trite, are at all times true; though too seldom regarded, but rarely neglected with impunity. Were the people of America with one voice to ask: "What shall we do to perpetuate our liberties and secure our happiness?" the answer would be: "Govern well," and you have nothing to fear either from internal disaffection or external hostility. Abuse not the power you possess, and you need never apprehend its diminution or loss. But if you make a wanton use of it; if you furnish another example that despotism may debase the government of the many as well as the few, you, like all others that have acted the same part, will experience that licentiousness is the forerunner to slavery.

How wise was that policy of Augustus, who, after conquering his enemies, when the papers of Brutus were brought to him, which would have disclosed all his secret associates, immediately ordered them to be burnt. He would not even know his enemies, that they might cease to hate where they had nothing to fear.

How laudable was the example of Elizabeth, who, when she was transferred from the prison to the throne, fell upon her knees, and thanking Heaven for the deliverance it had granted her from her bloody persecutors, dismissed her resentment. "This

act of pious gratitude," says her historian, "seems to have been the last circumstance in which she remembered any past injuries and hardships. With a prudence and magnanimity truly laudable, she buried all offences in oblivion, and received with affability even those who acted with the greatest virulence against her." She did more, she retained many of the opposite party in her councils.

The reigns of these two sovereigns are among the most illustrious in history. Their moderation gave a stability to their government which nothing else could have effected. This was the secret of uniting all parties.

These sentiments are delivered to you in the frankness of conscious integrity by one who *feels* that solicitude for the good of the community which the zealots, whose opinions he encounters, profess; by one who pursues not as they do the honors or emoluments of his country; by one who, though he has had in the course of the Revolution a very *confidential* share in the public councils, civil and military, and has as often, at least, met danger in the common cause as any of those who now assume to be the guardians of the public liberty, asks no other reward from his countrymen, than to be heard without prejudice for their own interest.

PHOCION.

P. S. — While the writer hopes the sentiments of this letter will meet the approbation of discreet and honest men, he thinks it necessary to apologize for the hasty and incorrect manner. Perhaps, too, expressions of too much asperity have been

employed against those who take the lead in the principles which are here opposed; and feelings of indignation against the pernicious tendency of their measures have not admitted sufficient allowances for what is, in some instances, an honest though mistaken zeal. Though the writer entertains the worst opinion of the motives of many of them, he believes there are some who act from principle.

LETTER II[1]

The little hasty production, under the signature of Phocion, has met with a more favorable reception from the public than was expected. The force of plain truth has carried it along against the stream of prejudice; and the principles it holds out have gained ground, in spite of the opposition of those who were either too angry, or too much interested, to be convinced. Men of this description, have, till lately, contented themselves with virulent invectives against the writer, without attempting to answer his arguments; but, alarmed at the progress of the sentiments advocated by him, one of them has at last come forward with an answer; with what degree of success, let those who are most partial to his opinion determine.

To say that the answer of Mentor is a feeble attempt, would be no derogation from his abilities;

[1] The first letter from Phocion attracted much attention and drew out many answers, of which the most important was one signed "Mentor." The author was Isaac Ledyard, a leading politician and a friend of Governor Clinton, so that Hamilton felt it necessary to reply by publishing this second "Phocion" letter.

for, in fact, the cause he espouses, admits of nothing solid; and, as one of its partisans, he is only to be blamed for not knowing its weak sides better than to have been tempted to expose it to the experiment of a defence.

But, before I enter further into the subject, I shall take occasion to acknowledge, with regret, the injudicious appearance of warmth in my former letter; calculated, with many minds, to raise prejudices against the truths it contains, and liable to be misrepresented into a general censure on that part of the community whose zeal, sacrifices, and sufferings must ever render them respectable to the true friends of the Revolution. I shall only observe, in apology (as is truly the case), that whatever severity of animadversion may have been indulged, was wholly directed against a *very small* number of men, who are manifestly aiming at nothing but the acquisition of power and profit to themselves; and who, to gratify their avidity for these objects, would trample upon every thing sacred in society, and overturn the foundations of public and private security. It is difficult for a man, conscious of a pure attachment to the public weal, who sees it invaded and endangered by such men, under specious but false pretences, either to think or speak of their conduct without indignation. It is equally difficult for one who, in questions that affect the community, regards *principles* only, and not *men*, to look with indifference on attempts to make the great principles of social right, justice, and honor, the victims of personal animosity or party intrigue.

More tenderness is indeed due to the mistakes of those who have suffered too much to reason with impartiality; whose honest prejudices, grown into habits by the impressions of an eight years' war, cannot at once accommodate themselves to that system which the public good requires; and whose situations are less favorable to distinguishing between doctrines invented to serve the turn of a revolution, and those which must give permanent prosperity to the State.

These observations I have thought proper to premise, in justice to my own intentions; and I shall now proceed, as concisely as possible, to examine the suggestions of Mentor, interspersing, as I go along, some remarks on objections which, though omitted by him, have been urged in other shapes against the principles of Phocion.

Mentor proposes to treat the sentiments of Phocion as a political novelty; but if he is serious, it is a proof that he is not even "tolerably well informed." They are as old as any regular notions of free government among mankind; and are to be met with not only in every speculative writer on these subjects, but are interwoven in the theory and practice of that code which constitutes the law of the land. They speak the common language of this country at the beginning of the Revolution, and are essential to its future happiness and respectability.

The principles of all the arguments I have used, or shall use, lie within the compass of a few simple propositions which, to be assented to, need only to be stated.

Firstly. That no man can forfeit, or be justly deprived, without his consent, of any right to which, as a member of the community, he is entitled, but for some crime incurring the forfeiture.

Secondly. That no man ought to be condemned unheard, or punished for supposed offences, without having an opportunity of making his defence.[1]

Thirdly. That a crime is *an act* committed or omitted, in violation of a public law, either forbidding or commanding it.[2]

Fourthly. That a prosecution is, in its most precise signification, an *inquiry* or *mode of ascertaining*, whether a particular person has committed or omitted such *act*.

Fifthly. That *duties* and *rights*, as applied to subjects, are reciprocal; or, in other words, that a man cannot be a *citizen* for the purpose of punishment, and not a *citizen* for the purpose of privilege.

These propositions will hardly be controverted by any man professing to be a friend to civil liberty. The application of them will more fully appear hereafter.

By the Declaration of Independence, on the fourth of July, in the year seventeen hundred and seventy-six, acceded to by our Convention on the ninth, the late colony of New York became an independent State. All the inhabitants, who were subjects under the former government, and who did not withdraw themselves upon the change which took place, were to be considered as citizens, owing

[1] *Vide* Address of Congress to the people of Great Britain, September 5, 1774.

[2] Blackstone, vol. iv., page 5.

allegiance to the new government. This, at least, is the legal presumption; and this was the principle, in fact, upon which all the measures of our public councils have been grounded. Duties have been exacted and punishments inflicted according to this rule. If any exceptions to it were to be admitted, they could only flow from the *indulgence* of the State to such individuals as, from peculiar circumstances, might desire to be permitted to stand upon a different footing.

The inhabitants of the southern district, before they fell under the power of the British army, were as much citizens of the State as the inhabitants of other parts of it. They must, therefore, continue to be such, unless they have been divested of that character by some posterior circumstance. This circumstance must either be:

Their having, by the fortune of war, fallen under the power of the British army;

Their having forfeited their claim by their own misconduct;

Their having been left out of the compact by some subsequent association of the body of the State; or,

Their having been dismembered by treaty.

The first of these circumstances, according to the fundamental principles of government and the constant practice of nations, could have no effect in working a forfeiture of their citizenship. To allow it such an effect, would be to convert misfortune into guilt; it would be, in many instances, to make the negligence of the society, in not providing adequate means of defence for the several parts, the

crime of those parts which were the immediate sufferers by that negligence. It would tend to the dissolution of society, by loosening the ties which bind the different parts together, and justifying those who should, for a moment, fall under the power of a conqueror, not merely in yielding such a submission as was exacted from them, but in taking a willing, interested, and decisive part with him.

It was the policy of the Revolution, to inculcate upon every citizen the obligation of renouncing his habitation, property, and every private concern for the service of his country; and many of us have scarcely yet learned to consider it as less than treason to have acted in a different manner. But it is time we should correct the exuberances of opinions propagated through policy and embraced from enthusiasm; and while we admit, that those who did act so disinterested and noble a part deserve the applause and, wherever they can be bestowed with propriety, the rewards of their country, we should cease to impute discriminate guilt to those who, submitting to the accidents of war, remained with their habitations and property. We should learn that this conduct is tolerated by the general sense of mankind; and that, according to that sense, whenever the State recovers the possession of such parts as were, for a time, subdued, the citizens returned at once to all the rights to which they were formerly entitled.

As to the second head, of forfeiture by misconduct, there is no doubt that all such as, remaining within the British lines, did not merely yield an

obedience which they could not refuse without ruin, but took a voluntary and interested part with the enemy, in carrying on the war, became subject to the penalties of treason. They could not, however, by that conduct, make themselves aliens, because, though they were bound to pay a temporary and qualified obedience to the conqueror, they could not transfer their eventual allegiance from the State to a foreign power. By becoming aliens, too, they would have ceased to be traitors; and all the laws of the State, passed during the Revolution, by which they are considered and punished as subjects, would have been, by that construction, unintelligible and unjust. The idea, indeed, of citizens transforming themselves into aliens, by taking part against the State to which they belong, is altogether of new invention, unknown and inadmissible in law, and contrary to the nature of the social compact.

But were this not the case, an insurmountable difficulty would still remain: for how shall we ascertain who are aliens, or traitors, let us call them which we will? It has been seen that the boundaries of the British lines cannot determine the question; for this would be to say that the merely falling under the power of the British army, constituted every man a *traitor* or an *alien*. It would be to confound one third of the citizens of the State in promiscuous guilt and degradation, without evidence or inquiry. It would be to make crimes, which are, in their nature, personal and individual, aggregate and territorial. . Shall we go into an inquiry to ascertain the crime of each person? *This*

would be a prosecution[1]; and the treaty forbids all future prosecutions. Shall the Legislature take the map, and make a geographical delineation of the rights and disqualifications of its citizens? This would be to measure innocence and guilt by latitude and longitude. It would be to *condemn* and *punish*, not one man but thousands, for *supposed offences*, without giving them an opportunity of making their defence. God forbid that such an act of barefaced tyranny should ever disgrace our history! God forbid that the body of the people should be corrupt enough to wish it, or even to submit to it!

But here we are informed by Mentor, that the treaty, instead of offering any obstacle to the views of those who wish to metamorphose their fellow-citizens into aliens, is precisely the thing which removes the difficulty. Mentor is thus far right, that if they are aliens at all, it must be by some stipulation in the treaty; but it requires not a little dexterity to show that such a stipulation exists. If it exist at all, it must be collected from the fifth and sixth articles. Let us, by analyzing these articles, try if we can find it out.

The fifth article speaks, in the first clause, of *real British subjects*, whose estates *had been confiscated;* and stipulates that Congress shall recommend a restitution.

In the second clause it speaks of *persons resident* in districts in the possession of the British forces, who had not borne arms against the United States; of whose estates, *also confiscated*, Congress are, in like manner, to recommend a restitution.

[1] *Vide* Proposition 4th.

In the third clause, persons of every other description are comprehended, who are to be permitted to remain twelve months unmolested, in any of the States, to solicit a restoration of their property, which *had been confiscated;* Congress recommending, even with respect to them, a restitution, on condition of their refunding to the present possessors, where there had been a sale, the *bona fide* price given by them for the estates in their possession.

It is apparent from the dissection of the article, that the inhabitants in the southern district, possessed by the British army, are not confounded in one general mass of alienism, as has been asserted. We find the express words of description are *real British subjects*, and as contradistinguished from them, *persons resident* in districts within the possession of the British arms. These last, by the *letter* as well as the spirit of the article, are deemed *not British subjects*.

There is no intelligible medium between a real British subject and one that is not a British subject at all. A man either *is* or *is not* the subject of a country. The word *real*, as applied to the affirmative, is a redundancy. Its natural contrasts are *fictitious* or *pretended*. If we should call the persons of other descriptions in the article *fictitious* or *pretended* British subjects, instead of justifying, it would exclude, the construction given by Mentor. For if they were only *fictitious* or *pretended* British subjects, they must be real American subjects; or, in other words, if they were not *real* British subjects, which, by necessary implication, they are declared

not to be, they must, of necessity, be American subjects.

The phrase *real British subjects*, strictly considered, is inaccurate; but its practical import, with the help of a little candor, is easily fixed. It is well known, that in this and other States, the property of persons who had never been subjects of this country, before or after the Revolution, but who had truly been subjects of Great Britain, had, in many instances, been confiscated. Sir Henry Clinton, the late Governor Tryon, Lord Dunmore, are examples, among us, of the real British subjects in the contemplation of the treaty. All the rest are, of course, American subjects.

To understand the fifth and sixth articles relatively, it is necessary to remark, that all the different classes described in the fifth article agree in one *common quality*—they are all persons *whose property had been already confiscated.* I have placed this fact in a pointed view; because it shows incontestably, that the persons who are the objects of the fifth article, and those who are the objects of the sixth, are totally different. The one relates to persons whose property had been confiscated, and *aims* at restitution; the other relates to those whose property had not yet been confiscated, who were actually suffering the sentence of the law, and has for object, to prevent future prosecutions, confiscations, or injuries to individuals, on account of their conduct in the war.

This distinction solves the seeming contradiction between the fifth and sixth articles: the former

providing for the future residence of persons of a particular description within the State for a twelvemonth; the other prohibiting all future injury or damage to persons, liberty, or property. At first sight, the great extent of the latter provision appears to supersede, and render absurd, the former; but the two articles are reconciled, by considering those who had already suffered the sentence of the law as not within the purview of the sixth article, to arrest or remit that sentence; while all others against whom sentence had not passed, are within the protection of the sixth article. It does not operate with a retrospective and restorative influence, but looks forward and stops the future current of prosecution and punishment.

To illustrate, in a more striking manner, the fallacy of Mentor's comment upon the treaty, I shall give a recital of it, with some explanatory additions, the fairness of which, I think, will not be disputed.

"In the sixth article," says he, "it is provided that *no one shall suffer* in his person, liberty, or property, on account of the part he may have taken in the war"; and yet, though no one, consistently with the treaty, can hereafter suffer in either of those respects, yet, many, consistently with the treaty, may be declared aliens, may be stripped of the most valuable rights of citizenship, and may be banished from the State, without injury to person, liberty, or property. "The fifth article," though it speaks of none but those who have already had their estates confiscated, "describes the persons provided for by the sixth," which indeed says, that

there *shall be* no future prosecutions, nor confiscations, nor injury to person, liberty, or property; but this only means, that there shall be no future prosecutions commenced against those who have been already *attainted and banished;* nor confiscations made of the estates of those whose estates *have been already confiscated;* nor injuries done to the persons, liberty, and property of those who are already to be esteemed *dead in law* by attainder and exile: but with respect to all those who have not been already *attainted, banished,* and *subjected to confiscation* (the only persons comprehended in the fifth article, and provided for in the sixth), we may prosecute, banish, confiscate, disfranchise, and do whatever else we think proper. The fifth article stipulates the good offices of Congress for those who have been already ruined; and the sixth benignly takes care that they shall not be ruined a second time; but leaves all others to their destiny and our mercy. "The fifth article distinguishes the persons who are the objects of it into three classes:—First: those who are real British subjects. The second: those," meaning British subjects, who are not real British subjects, described by the appellation of persons resident in districts in the possession of the British forces, "who had not taken arms against the country. The third class are described by the provision that is made for them; namely: They shall have liberty to go into any part of the United States for twelve months, to solicit a restoration of their estates that may have been confiscated. This class must be those who, belonging to America, have

taken arms against their country. As to the first and second class, it is agreed, that Congress shall recommend to the States a restoration of their property. The third, it seems, were too infamous for the English minister to ask any consideration for, except the wretched privilege of asking it for themselves"; though, in fact, with respect even to them, it is expressly stipulated that Congress shall recommend a restoration of their estates, rights, and properties, on paying to the present possessors, the *bona fide* price given for them, where there has been an actual sale. "But," continues he, "I can find, nowhere, even a request, and that only implied, that any of the three classes may dwell among us, and enjoy the immunities and privileges of citizens: for the first class are considered as former subjects; the second and third as acquired subjects of England,"—*acquired* but not *real.*

Thus we see, by taking the outlines of Mentor's construction, and filling up the canvas in a manner suited to the design, the whole is a group of absurdities; or, in other words, by connecting the consequences with the principles of his comment on the treaty, the result is too ridiculous not to strike the meanest understanding.

It must appear by this time manifest, that there is nothing in the terms of the treaty, which countenances the supposition that those who have been within the British lines are considered and stipulated for as aliens. One ground upon which this idea has been originally adopted, was, that it would have been improper to have stipulated for them at all, if they

were not aliens: but I have shown, in my former letter, that a stipulation for subjects, in similar circumstances, has been far from unprecedented.

A good criterion by which to determine the meaning of the treaty, in this respect, is, to recur to the impressions that it made on its first appearance, before there had been time to contrive and substitute an artificial to the natural and obvious sense of the words. Every man, by appealing to his own bosom, will recollect that he was at first struck with an opinion that the disaffected were secured from every future deprivation and injury whatever; and however many may have been chagrined at the idea that they should be admitted to a parity of privileges with those who had supported the Revolution, none doubted that this was the sense of the treaty. Indeed, the principal doubt seemed to be, in the first instance, whether the sixth article was not so broad as to protect even those who had been attainted, from personal injury, in case of their return within the State.

I shall not, in this place, revive the question of the power of Congress to make this stipulation; not only because Mentor appears to have conceded this point, and to acknowledge our obligation to a faithful observance of the treaty; but because what has been offered in my former letter on this head must continue to appear to me to be absolutely conclusive, until some satisfactory limits can be assigned to the powers of war, peace, and treaty, vested in Congress, other than those I have mentioned—the public safety, and the fundamental constitutions of society.

When any different and intelligible line shall be drawn, I will give up the question, if I cannot show it is inadmissible in practice.

The common interests of humanity, and the general tranquillity of the world, require that the power of making peace, wherever lodged, should be construed and exercised liberally; and even in cases where its extent may be doubtful, it is the policy of all wise nations to give it latitude rather than confine it. The exigencies of a community, in time of war, are so various, and often so critical, that it would be extremely dangerous to prescribe narrow bounds to that power by which it is to be restored. The consequence might frequently be a diffidence of our engagements, and a prolongation of the calamities of war.

It may not be improper, in this place, to answer an objection which has been made to a position contained in my former letter. It is there laid down as a rule, that the breach of a single article of a treaty annuls the whole. The reason of this rule is, that every article is to be regarded as the consideration of some other article.

This has given occasion to observe, that a breach of the treaty on the part of the British, in sending away a great number of negroes, has, upon my principles, long since annihilated the treaty, and left us at perfect liberty to desert the stipulations on our part.

This admits of an easy and solid answer. The breach of one article annuls the whole, if the side injured by it chooses to take advantage of it to dis-

solve the treaty[1]; but if its interest dictates a different conduct, it may waive the breach, and let the obligation of the treaty continue. The power of determining whether the treaty has been broken, properly belongs to that body who made it. Congress have wisely taken a different course; and, instead of reviving the state of hostility by declaring the treaty void, have proceeded upon the presumption of its continuing in force; and, by subsequent acts, have given it additional validity and strength. The definitive treaty has been since concluded, and proclaimed with a remarkable solemnity and energy for the observance of the citizens of the United States.

The third mode mentioned, by which the inhabitants of the southern district may have lost their rights of citizenship, is, their having been left out of the compact by some subsequent association of the body of the State. The fact, however, is directly the reverse: for, not only the Constitution makes provision for the representation of the people of the southern district in the Legislature, but, during the whole war, by an ordinance of the Convention who framed the Constitution, an actual representation has been kept up in a manner, the regularity of which (whatever might have been the expedience of it) was more than questionable, as all elections were suspended in that part of the State. This circumstance of a constant representation of the inhabitants of the southern district in the Legislature, during the war, is, in a rational as well as a legal light, a conclusive

[1] Vatel, page 130, § 48.

refutation of the pretended alienism of those inhabitants by any events of the war, or by any other matter that applies to them in a collective view antecedent to the treaty of peace. To this it may be added that a variety of the laws of this State, in the course of the war, suppose and treat the inhabitants of the southern district as subjects owing allegiance to the State, and, consequently, having the rights which subjects in general enjoy under the government.[1]

The argument is still stronger when we attend to what has been done by the government since the restoration of its jurisdiction in the southern district. We did not wait until a bill of naturalization was passed to remove the disabilities of the inhabitants before we proceeded to elections. We did not confine those elections to such persons only as had resided without the British lines, but left them open to all descriptions of persons who would choose to take the oath prescribed for that purpose by the Council. Few, indeed, in this city, besides those who had been absent, did in fact vote at the elections; but a considerable number did in the counties. And if we should admit the doctrine of the general alienism of the inhabitants of the southern district, either before, or in consequence of the treaty of peace, a curious question, not easy to be solved, would arise, as to the validity of the election of many individuals now holding seats in Senate and Assembly. So far as an act of government can decide the point in controversy, it is already decided.

[1] *Vide* Position 5th.

The Council for the temporary government of the southern district, in appointing the mode of election; the conduct of the Legislature since, in admitting the members elected in that mode, are unconstitutional; or the inhabitants at large of the southern district, either by the treaty, or any antecedent circumstance, are not aliens.

I have dwelt the more largely on this head, not only because the idea of a general alienism of the inhabitants of the southern district is the ground Mentor has taken; but because some persons, who have it in their power to make a mischievous use of it, are endeavoring to give it circulation, where, if it could prevail, it might lead to pernicious consequences. Pressed by the difficulty of discriminating those who may have forfeited the rights of citizenship from those who have not, without a manifest violation, as well of the Constitution as of the treaty of peace, they are willing, if possible, to devise some general expedient to evade both; and the one they have hit upon, is, to declare all those aliens who have lived within the British lines during the war, on the miserable pretence that they are made such by the treaty.

Thus we have another example how easy it is for men to change their principles with their situations; to be zealous advocates for the rights of the citizens when they are invaded by others; and, as soon as they have it in their power, to become the invaders themselves; to resist the encroachments of power, when it is in the hands of others; and, the moment they get it into their own hands, to make bolder

strides than those they have resisted. Are such men to be sanctified with the hallowed names of patriots? Are they not rather to be branded as men who make their passions, prejudices, and interests the sole measure of their own and others' rights?

The history of mankind is too full of these melancholy instances of human contradiction.

Having mentioned the oath directed to be prescribed to electors in the southern district, by the Council for the temporary government, I shall take occasion, in this place, with freedom but with respect, to examine the propriety of that measure.

This measure was founded upon an act of the Legislature of this State, passed in the year, declaring that persons who had been guilty of certain matters particularized in that act, should be for ever after disqualified from voting at all public elections. I confine myself, for the sake of brevity, to the general idea of the act. The embarrassment with the Council, no doubt, was, how to ascertain the persons who had incurred the disability. As the matters to which that disability related were of a specific nature, it was necessary they should be specifically ascertained before the law could have its effect.

The Council, therefore, could not satisfy that law by declaring all those disqualified who had resided within the British lines during the war. They would not leave the operation of it to a course of judicial investigation and decision, because this would be to fly in the face of the treaty; and appearances were to be preserved. This consideration was

strengthened by another. The course of the law must have been dilatory. The elections were to be entered upon. It was deemed inexpedient that the voice of the citizens at large (which must have been the case if the act of the Legislature in question had been left to its natural course) should govern these elections. If the returning citizens were not at this juncture gratified, tumults were by some apprehended.

This was a plausible step, and on that account the more dangerous. If we examine it with an unprejudiced eye, we must acknowledge, not only that it was an evasion of the treaty, but a subversion of one great principle of social security: to wit, that every man shall be presumed innocent until he is proved guilty. This was to invert the order of things; and, instead of obliging the State to prove the guilt in order to inflict the penalty, it was to oblige the citizen to establish his own innocence to avoid the penalty. It was to excite scruples in the honest and conscientious, and to hold out a bribe to perjury.

That this was an evasion of the treaty, the fourth proposition already laid down will illustrate. It was a mode of inquiry, who had committed any of those crimes to which the penalty of disqualification was annexed; with this aggravation, that it deprived the citizen of the benefit of that advantage which he would have enjoyed, by leaving, as in all other cases, the burthen of the proof upon the prosecutor.

To place this matter in a still clearer light, let it

be supposed, that instead of the mode of indictment and trial by jury, the Legislature was to declare, that every citizen who did not swear he had never adhered to the King of Great Britain, should incur all the penalties which our treason laws prescribe. Would this not be a palpable evasion of the treaty, and a direct infringement of the Constitution? The principle is the same in both cases; with only this difference in the consequences, that, in the instance already acted upon, the citizen forfeits a part of his rights; in the one supposed, he would forfeit the whole. The degree of punishment is all that distinguishes the cases. In either, justly considered, it is substituting a new and arbitrary mode of prosecution to that ancient and highly esteemed one, recognized by the laws and the Constitution of the State,—I mean the trial by jury.

Let us not forget, that the Constitution declares, that trial by jury, in all cases in which it has been formerly used, should remain inviolate for ever; and that the Legislature should, at no time, erect any new jurisdiction which should not proceed according to the courses of the common law. Nothing can be more repugnant to the true genius of the common law, than such an inquisition as has been mentioned into the consciences of men.

A share in the sovereignty of the State, which is exercised by the citizens at large, in voting at elections, is one of the most important rights of the subject, and, in a republic, ought to stand foremost in the estimation of the law. It is that right by which we exist a free people; and it certainly, there-

fore, will never be admitted, that less ceremony ought to be used in divesting any citizen of that right than in depriving him of his property. Such a doctrine would ill suit the principles of the Revolution, which taught the inhabitants of this country to risk their lives and fortunes in asserting their *liberty;* or, in other words, their *right* to a *share* in the government. That portion of the sovereignty to which each individual is entitled, can never be too highly prized. It is that for which we have fought and bled; and we should cautiously guard against any precedents, however they may be immediately directed against those we hate, which may, in their consequences, render our title to this great privilege precarious. Here we may find the criterion to distinguish the genuine from the pretended Whig. The man that would attack that right, in whatever shape, is an enemy to Whigism.

If any oath, with retrospect to past conduct, were to be made the condition on which individuals who have resided within the British lines should hold their estates, we should immediately see that this proceeding would be tyrannical, and a violation of the treaty; and yet, when the same mode is employed to divest that right, which ought to be deemed still more sacred, many of us are so infatuated as to overlook the mischief.

To say that the persons who will be affected by it have previously forfeited that right, and that therefore nothing is taken away from them, is a begging of the question. How do we know who are the persons in this situation? If it be answered, This

is the mode taken to ascertain it; the objection returns, 'T is an improper mode, because it puts the most essential interests of the citizen upon a worse footing than we should be willing to tolerate where inferior interests were concerned; and because, to elude the treaty, it substitutes to the established and legal mode of investigating crimes and inflicting forfeitures, one that is unknown to the Constitution and repugnant to the genius of our law.

Much stress has been laid upon a couple of unmeaning words in the act to enforce the penalties for which the oath was invented. It is declared that the persons who have done the several things enumerated in the act shall be *ipso facto* disqualified. These words of potent sound but of little substance, have been supposed to include wonderful effects. Let us see if we can give them any definite meaning. If a man commits murder, by the very act, *ipso facto*, he incurs the penalty of death; but before he can be hanged we must inquire whether he has certainly committed the act. If a man has done any of those things which are declared sufficient to disqualify him from voting, though by the very act, *ipso facto*, he incurs the penalty of the law, yet, before he can be actually disqualified, we must inquire whether he has really done the act. From this we perceive the words *ipso facto* are mere expletives, which add nothing to the force or efficacy of the law.

It has been said, too, that an oath to determine the qualifications of electors is a usual precaution in free governments; but we may challenge those who make the assertion, to show that retrospective oaths

have ever been administered, requiring electors to swear that they have not been guilty of past offences. In all the violence of party which has, at different periods, agitated Great Britain, nothing of this kind has ever been adopted; but even where religious fanaticism has given an edge to political opposition, and in an undecided contest for the crown, they have never gone further than to prescribe oaths for testing present dispositions towards the government, on general principles, without retrospection to particular instances of past mal-conduct. The practical notions of legal liberty established in that country by a series of trials, would make such an experiment too odious to be attempted by the government. Wise men have thought that even there they have carried the business of oaths to an exceptionable length; but we, who pretend a purer zeal for liberty, in a decided contest, after a formal renunciation of claims by the adverse party, are for carrying the matter to a still more blamable extreme.

Men whose judgments and intentions I respect, were the promoters of the measure which has occasioned this digression: some from the contagion of popular opinion; others from the too strong impressions of momentary expedience; and a third class from the insensible bias of some *favorite pursuit.*

As to the fourth method in which the inhabitants of the southern district may have lost their rights of citizenship, a dismemberment by treaty, I have naturally been drawn, under the third head, into a

discussion of this; and I trust have shown, to the full satisfaction of all candid men, that there is not a shadow of foundation to suppose that such a dismemberment is in the contemplation of the treaty. A few short remarks shall conclude what I intend to say on this article.

It is a case without precedent, that a nation, in surrendering its acquisitions in war to the state from which those acquisitions were made, should stipulate for the inhabitants of the country given up as for its *own* subjects. To do it would be both useless and absurd: useless, because the country being surrendered, no reasonable advantage could be derived from retaining the allegiance of its inhabitants; absurd, because the district of territory surrendered being given up as a part of the state to which the surrender is made, it would be contradictory, by the same act, to acknowledge the right of that state to the *part* given up, and yet to hold up a claim to the allegiance of its inhabitants.

The surrender (for the question does not relate to *original cessions*) carries in itself a decisive implication that the inhabitants of the country surrendered are the subjects of the power to which the surrender is made; and the presumption in this case is so strong that nothing but the most positive and unequivocal exceptions in the treaty would be sufficient to defeat it. Labored constructions to give the treaty that complexion are inadmissible; for if there were room to doubt, the doubt, in just reasoning, should be interpreted against the position that the inhabitants of the country surrendered were the sub-

jects of the power by which the surrender was made.

The only additional remark I shall make on this head is this: Though we are under great obligations to our ministers for the substance of the treaty, which comprehends all the essential interests of this country, we must acknowledge that the language of it is in many respects defective and obscure. The true rule in this case is not to have recourse to artificial and far-fetched interpretation, but to admit such meanings as the simple and popular import of the words conveys. When, therefore, it is said, in the sixth article, "that there shall be no future prosecutions commenced, nor confiscations made, nor damage done to person, liberty, or property of any person or persons on account of the part taken by them in the war"; as the natural and obvious scope of the words presents a full amnesty and indemnity for the future, we should not torture our imaginations to pervert them to a different sense.

It has been urged, in support of the doctrines under consideration, that every government has a right to take precautions for its own security, and to prescribe the terms on which its rights shall be enjoyed.

All this is true when understood with proper limitations; but, when rightly understood, will not be found to justify the conclusions which have been drawn from the premises.

In the first formation of a government, the society may multiply its precautions as much, and annex as many conditions to the enjoyment of its rights, as it shall judge expedient; but when it has once

adopted a Constitution that Constitution must be the measure of its discretion in providing for its own safety, and in prescribing the conditions upon which its privileges are to be enjoyed. If the Constitution declares that persons possessing certain qualifications shall be entitled to certain rights while that Constitution remains in force, the government, which is the mere creature of the Constitution, can divest no citizen, who has the requisite qualifications, of his corresponding rights. It may indeed enact laws and annex to the breach of them the penalty of forfeiture; but before that penalty can operate, the existence of the fact upon which it is to take place must be ascertained in that mode which the Constitution and fundamental laws have provided. If trial by jury is the mode known and established by that Constitution and those laws, the persons who administer the government in deviating from that course will be guilty of usurpation. If the Constitution declares that the legislative power of the state shall be vested in one set of men and the judiciary power in another; and those who are appointed to act in a legislative capacity undertake the office of judges; if, instead of confining themselves to passing laws with proper sanctions to enforce their observance, they go out of their province to decide who are the violators of those laws, they subvert the Constitution and erect a tyranny. If the Constitution were even silent on particular points, those who are intrusted with its power would be bound in exercising their discretion to consult and pursue its spirit, and to conform to

the dictates of reason and equity; if, instead of this, they should undertake to declare whole classes of citizens disfranchised and excluded from the common rights of the society without hearing, trial, examination, or proof; if, instead of waiting to take away the rights of citizenship from individuals till the state has convicted them of crimes by which they are to lose them before the ordinary and regular tribunal, they institute an inquisition into men's consciences and oblige them to give up their privileges or undertake to interpret the law at the hazard of perjury, they expose themselves to the imputation of injustice and oppression.

The right of government to prescribe the conditions on which its privileges shall be enjoyed is bounded, with respect to those who are already included in the compact, by its original conditions: in admitting strangers it may add new ones; but it cannot, without a breach of the social compact, deprive those who have been once admitted, of their rights, unless for some declared cause of forfeiture authenticated with the solemnities required by the subsisting compact.

The rights, too, of a republican government are to be modified and regulated by the principles of such a government. These principles dictate that no man shall lose his rights without a hearing and conviction before the proper tribunal; that, previous to his disfranchisement, he shall have the full benefit of the laws to make his defence; and that his innocence shall be presumed until his guilt has been proved. These, with many other maxims, never to

be forgotten in any but tyrannical governments, oppose the aims of those who quarrel with the principles of Phocion.

Cases indeed of extreme necessity are exceptions to all general rules, but these only exist when it is manifest the safety of the community is in imminent danger. Speculations of possible danger never can be justifying causes of departures from principles on which, in the ordinary course of things, all private security depends; from principles which constitute the essential distinction between free and arbitrary governments.

When the advocates for legislative discriminations are driven from one subterfuge to another, their last resting-place is that this is a new case, the case of a revolution. Your principles are all right, say they, in the ordinary course of society; but they do not apply to a situation like ours. This is opening a wilderness through all the labyrinths of which it is impossible to pursue them. The answer to this must be that there are principles eternally true, and which apply to all situations such as those that have been already enumerated; that we are not now in the midst of a revolution, but have happily brought it to a successful issue; that we have a Constitution formed as a rule of conduct; that the frame of our government is determined, and the general principles of it settled; that we have taken our station among nations; have claimed the benefit of the laws which regulate them, and must in our turn be bound by the same laws; that those eternal principles of social justice forbid the inflicting punishment upon citizens

by an abridgment of rights, or in any other manner, without conviction of some specific offence by regular trial and condemnation; that the Constitution we have formed makes the trial by jury the only proper mode of ascertaining the delinquencies of individuals; that legislative discriminations to supersede the necessity of inquiry and proof would be a usurpation of the judiciary powers of the government, and a renunciation of all the maxims of civil liberty; that by the laws of nations and the rules of justice we are bound to observe the engagements entered into on our behalf by that power which is invested with the constitutional prerogative of treaty; and that the treaty we have made in its genuine sense ties up the hands of government from any species of future prosecution or punishment, on account of the part taken by individuals in the war.

Among the extravagancies with which these prolific times abound, we hear it often said that the Constitution being the creature of the people, their sense with respect to any measure, if it even stand in opposition to the Constitution, will sanctify and make it right.

Happily for us in this country, the position is not to be controverted, that the Constitution is the creature of the people; but it does not follow that they are not bound by it while they suffer it to continue in force, nor does it follow that the Legislature, which is, on the other hand, a creature of the Constitution, can depart from it on any presumption of the contrary sense of the people.

The Constitution is the compact made between

the society at large and each individual. The society, therefore, cannot without breach of faith and injustice refuse to any individual a single advantage which he derives under that compact, no more than one man can refuse to perform his agreement with another. If the community have good reasons for abrogating the old compact and establishing a new one, it undoubtedly has a right to do it; but until the compact is dissolved with the same solemnity and certainty with which it was made, the society as well as individuals are bound by it.

All the authority of the Legislature is delegated to them under the Constitution; their rights and powers are there defined; if they exceed them it is a treasonable usurpation upon the power and majesty of the people, and by the same rule that they may take away from a single individual the rights he claims under the Constitution, they may erect themselves into perpetual dictators. The sense of the people, if urged in justification of the measure, must be considered as a mere pretext, for that sense cannot appear to them in a form so explicit and authoritative as the Constitution under which they act, and if it could appear with equal authenticity, it could only bind when it had been preceded by a declared change in the form of government.

The contrary doctrine serves to undermine all those rules by which individuals can know their duties and their rights, and to convert the government into a government of *will*, not of *laws*.

There is only one light, on Mentor's plan, in which this subject remains to be considered; the danger

to the government from suffering persons to reside among us who have an aversion to our Constitution; either by their becoming auxiliaries to future attempts of the British nation to recover their lost authority, or by their contributing to corrupt the principles and change the form of our government.

My observations on this subject in my former letter, I believe, remain unshaken by what Mentor has opposed to them. I shall, however, add a few others.

The restoration of British authority in this country is too chimerical to be believed even by Mentor himself; though he makes some faint essay to induce the supposition.

Why did Great Britain make peace with America? Because the necessity of her affairs compelled her to do it. In what did this necessity consist? In every species of embarrassment and disorder that a nation could experience. Her public debt had almost arrived at that point, when the expenses of a peace establishment were nearly equal to all the revenues they were able to extract from exhausting the sources of taxation. Had they carried on the war till they had exceeded this point, a bankruptcy would have been the inevitable consequence. We perceive, as it is, the great difficulties that are acknowledged by every succession of ministers, in devising means to retrieve the affairs of the nation.

The distractions of the government, arising from those embarrassments, are scarcely paralleled in any period of British history. Almost every sitting of Parliament is a signal of a change of ministry. The

King at variance with his Ministers; the Ministers unsupported by Parliament; the Lords disagreeing with the Commons; the nation execrating the King, Ministers, Lords, and Commons; all these are symptoms of a vital malady in the present state of the nation.

Externally the scene is not brighter. The affairs of the East India settlements are in the most perplexing confusion; and Ireland seems to be ready to dismember itself from the British Empire.

It may be said that these are temporary mischiefs, which may be succeeded by greater tranquillity, prosperity, and power. The future situation of Great Britain is a problem which the wisest man cannot solve. In all appearance, it will be a considerable time before she can recover from the pressure of the evils under which she now labors, to be in a condition to form enterprises against others. When that period may arrive, our strength and resources will have greatly increased; the habits of men attached to her will have worn out: and it is visionary to suppose that she will then entertain a disposition to renew her attempts upon a country, increased in strength and resources, exerting its forces under an established Constitution, fortified by foreign alliances, which her acknowledged independence will at all times command; when she reflects that that country, in the tumult of a revolution, and in a state of comparative impotence, baffled all her efforts in the zenith of her power.

To an enlightened mind it will be sufficient to say, upon this subject, that, independent of our own

means of repelling enterprises against us, Europe has been taught, by this revolution, to estimate the danger to itself of a union of the two countries under the same government, in too striking a manner ever to permit the reunion, or tolerate the attempts of Great Britain toward it.

The danger from the corruption of the principles of our government is more plausible, but not more solid. It is an axiom, that governments form manners, as well as manners form governments. The body of the people of this State are too firmly attached to the democracy to permit the principles of a small number to give a different tone to that spirit.[1] The present law of inheritance, making an equal division among the children of the parents' property, will soon melt down those great estates, which, if they continued, might favor the power of the *few*. The number of the disaffected, who are so from speculative notions of government, is small. The great majority of those who took part against us did it from accident, from the dread of the British power, and from the influence of others to whom they had been accustomed to look up. Most of the men who had that kind of influence are already gone: the residue and their adherents must be carried along by the torrent, and, with a very few exceptions, if the government is mild and just, will soon come to view it with approbation and attachment.

Either the number of malcontents in the State is

[1] This whole passage should be noted because it disposes so completely of Jefferson's absurd and reiterated charge that Hamilton wished to introduce a monarchy.

small or it is considerable. If small, there is no room for apprehension; if great, then opposition to the government is only to be overcome by making it their interest to be its friends, or by extirpating them from the community. A middle line, which will betray a spirit of persecution in the government, but will only extend its operation to a small number, will answer no other purpose than to disable a few, and inflame and rivet the prejudices of the rest, by exhibiting the temper of government in a harsh and unconciliating light. We shall, then, in truth, have a considerable faction in the State ready for all innovations.

The impracticability of such a general extirpation, suggests the opposite conduct as the only proper one.

There is a bigotry in politics as well as in religions, equally pernicious in both. The zealots, of either description, are ignorant of the advantage of a spirit of toleration. It was a long time before the kingdoms of Europe were convinced of the folly of persecution with respect to those who were schismatics from the established church. The cry was, these men will be equally the disturbers of the Hierarchy and of the State. While some kingdoms were impoverishing and depopulating themselves by their severities to the non-conformists, their wiser neighbors were reaping the fruits of their folly, and augmenting their own numbers, industry, and wealth, by receiving, with open arms, the persecuted fugitives. Time and experience have taught a different lesson: and there is not an enlightened nation which

does not now acknowledge the force of this truth, that whatever speculative notions of religion may be entertained, men will not, on that account, be enemies to a government that affords them protection and security. The same spirit of toleration in politics, and for the same reasons, has made great progress among mankind, of which the history of most modern revolutions is a proof. Unhappily for this State, there are some among us who possess too much influence; that have motives of personal ambition and interest to shut their minds against the entrance of that moderation which the real welfare of the community teaches.

Our neighbors seem to be in a disposition to benefit by our mistakes; and the time will not be very remote, if the schemes of some men can prevail, when we shall be ashamed of our own blindness, and heap infamy upon its promoters.

It is remarkable, though not extraordinary, that those characters, throughout the States, who have been principally instrumental in the revolution, are the most opposed to persecuting measures. Were it proper, I might trace the truth of this remark from that character which has been the first, in conspicuousness, through the several gradations of those, with very few exceptions, who, either in the civil or military line, have borne a distinguished part. On the other hand, I might point out men who were reluctantly dragged into taking a part in the revolution; others who were furious zealots in the commencement of the dispute, that were not heard of to any public purpose, during the progress

of it; and others who were fluctuating, according to the tide of good- or ill-fortune; all of whom now join in the cry with a fourth class, more imprudent, but much more respectable, and endeavor, by the loudness of their clamors, to atone for their past delinquencies.

As to Mentor's commercial reveries, I shall decline bestowing many remarks upon them; not only because they are not immediately connected with the general subject, but because there is little danger of their making *any* proselytes, while men are convinced that the prosperity of the national commerce depends as much upon the extent of its capital as that of an individual; that to confine trade to any particular description of men, in exclusion of others who have better means of carrying it on, would be, if practicable, to make the people at large tributary to the avarice of a small number who were to have the benefit of the monopoly; that, in the present situation of things, a very small proportion of those intended to be benefited, who have the means to avail themselves of the advantage, would reap all its fruits, even at the expense, and to the prejudice, of the greater part of those who were meant to be favored; that the fewer hands trade is confined to, the less will be its activity, and the less the degree of employment afforded to other classes of the community; and, in short, that all monopolies, exclusions, and discriminations, in matters of traffic, are pernicious and absurd.

Since writing the foregoing, I have learned that a bill is depending before the House of Assembly, for

putting various descriptions of persons out of the protection of government. I have too much respect for the wisdom and virtue of that body, to suppose a measure of this nature can obtain the sanction of the majority. What is the plain language of the proposal? There are certain persons who are obnoxious to public resentment. The treaty forbids us to proceed against them in a legal way. Let us, therefore, by an unconstitutional exertion of power evade the treaty, however dangerous the precedent to the liberty of the subject, and however derogatory to the honor of the nation. By the treaty we stipulate, that *no person* or *persons* shall *suffer*, on account of the part they may have taken in the war, any damage to person, liberty, or property; and yet, by taking away the protection of government, which they would enjoy under the subsisting laws, we leave them to *suffer* whatever injury to either, the rashness of individuals who are the *subjects* of the State, may think proper to inflict. What would this be, but to imitate the conduct of a certain general, who, having promised that he would not spill the blood of some prisoners who were about to surrender by capitulation, after he had them in his power had them all strangled to death? Words, in every contract, are to be construed so as to give them a reasonable effect. When it is stipulated that a man shall not suffer in person, liberty, or property, it does not merely mean, that the State will not inflict any positive punishment upon him, but also that it will afford him protection and security from injury. The very *letter*, as well as the *spirit* of the stipulation,

imports this. He *shall not suffer* any damage, are the words of the treaty.

The scheme of putting men out of the protection of the law, is calculated to transfer the sceptre from the hands of government to those of individuals; it is to arm one part of the community against another; it is to *enact* a civil war. If, unhappily for the State, this plan could succeed, no man can foresee the end of it. But the guardians of the rights of the community will certainly, on mature deliberation, reject it.

Feeling for the honor of the State, if expulsions must take place, if the Constitution and the faith of the United States must be sacrificed to a supposed political expedience, I had much rather see an open avowal of the principles upon which we acted, than that we should clothe the design with a veil of artifice and disguise, too thin not to be penetrated by the most ordinary eye.

I shall now, with a few general reflections, conclude.

Those who are at present entrusted with power, in all these infant republics, hold the most sacred deposit that ever was confided to human hands. 'T is with governments as with individuals; first impressions and early habits give a lasting bias to the temper and character. Our governments, hitherto, have no habits. How important to the happiness, not of America alone, but of mankind, that they should acquire good ones!

If we set out with justice, moderation, liberality, and a scrupulous regard to the Constitution, the

government will acquire a spirit and tone productive of permanent blessings to the community. If, on the contrary, the public councils are guided by humor, passion, and prejudice; if from resentment to individuals, or a dread of partial inconveniences, the Constitution is slighted, or explained away, upon every frivolous pretext, the future spirit of government will be feeble, distracted, and arbitrary. The rights of the subject will be the sport of every party vicissitude. There will be no settled rule of conduct, but every thing will fluctuate with the alternate prevalency of contending factions.

The world has its eye upon America. The noble struggle we have made in the cause of liberty has occasioned a kind of revolution in human sentiment. The influence of our example has penetrated the gloomy regions of despotism, and has pointed the way to enquiries which may shake it to its deepest foundations. Men begin to ask, everywhere: Who is this tyrant that dares to build his greatness on our misery and degradation? What commission has he to sacrifice millions to the wanton appetites of himself and a few minions that surround his throne?

To ripen enquiry into action, it remains for us to justify the revolution by its fruits.

If the consequences prove that we really have asserted the cause of human happiness, what may not be expected from so illustrious an example? In a greater or less degree the world will bless and imitate.

But if experience, in this instance, verifies the

lesson long taught by the enemies of liberty, that the bulk of mankind are not fit to govern themselves; that they must have a master, and were only made for the rein and the spur; we shall then see the final triumph of despotism over liberty; the advocates of the latter must acknowledge it to be an *ignis fatuus*, and abandon the pursuit. With the greatest advantages for promoting it that ever a people had, we shall have betrayed the cause of human nature.

Let those in whose hands it is placed pause for a moment, and contemplate with an eye of reverence the vast trust committed to them. Let them retire into their own bosoms and examine the motives which there prevail. Let them ask themselves this solemn question: Is the sacrifice of a few mistaken or criminal individuals an object worthy of the shifts to which we are reduced, to evade the Constitution and the national engagements? Then let them review the arguments that have been offered with dispassionate candor; and if they even doubt the propriety of the measures they may be about to adopt, let them remember, that, in a doubtful case, the Constitution ought never to be hazarded without extreme necessity.

PHOCION.

REPEAL OF ALL ACTS INCONSISTENT WITH THE TREATY

[An act entitled "An act relative to debts due to persons within the enemy's lines," and another act entitled "An act to explain and amend the act entitled an act relative to debts due to persons within the enemy's lines."—*April 20, 1787.*]

Speech on the Passage of this Act[1]

Mr. Hamilton expressed great uneasiness that any opposition should be made to this bill; particularly as this State was individually interested therein. He felt greater regret, from a conviction in his own mind, on this occasion, that the bill should be objected to, as there was not a single law in existence in this State, in direct contravention of the treaty of peace. He urged the committee to consent to the passing of the bill, from the consideration that the State of New York was the only State to gain any thing by a strict adherence to the treaty. There was no other State in the Union that had so much to expect from it. The restoration of the western posts was an object of more than £100,000 per annum. Great Britain, he said, held those posts, on the plea that the United States have not fulfilled the treaty, and which we have strong assurances she will relinquish, on the fulfilment of our engagements with her. But how far Great Britain might be sincere in her declaration was unknown; indeed he doubted it himself. But while he doubted the sincerity of Great Britain, he could not but be of opinion that it was the duty of this State to enact a law

[1] Delivered in the New York Legislature, 1787.

for the repeal of all laws which may be against the said treaty, as by doing away all exceptions, she would be reduced to a crisis. She would be obliged to show to the world whether she was in earnest or not, and whether she will sacrifice her honor and reputation to her interest. With respect to the bill, as it was drafted in conformity to the recommendation of Congress, he viewed it as a wise and salutary measure, one calculated to meet the approbation of the different States, and most likely to answer the end proposed. Were it possible to examine an intricate maze of laws, and to determine which of them, or what parts of laws, were opposed to the treaty, it still might not have the intended effect, as different parties would have the judging of this matter. What one should say was a law not inconsistent with the peace, another might say was so; and there would be no end, no decision of the business. Even some of the States might view laws in a different manner. The only way to comply with the treaty was to make a general and unexceptional repeal. Congress, with an eye to this, had proposed a general law, from which the one before them was a copy. He thought it must be obvious to every member of the committee, that as there was no law in direct opposition to the treaty, no difficulty could arise from passing the bill.

Some gentlemen, he observed, were apprehensive that this bill would restore the confiscated estates, etc. This he did not admit. However, if they were so disposed they might add a proviso to prevent it. He had written one, which any of the gentlemen

might move, if they thought it necessary; in his opinion it was not.

The treaty only provided that no future confiscations should take place; and that Congress should *earnestly recommend* a restoration of property. But there was nothing obligatory in this.

If this State should not come into the measure, would it not be a very good plea for the other States to favor their own citizens, and say, "Why should we do this, when New York, the most interested of any of the States, refuses to adopt it?" and shall we suffer this imputation when, in fact we have no laws in existence that militate against the treaty? He stated the great disadvantages that our merchants have experienced from the western posts being in the hands of the British, and asked if it was good policy to let them remain so.

It had been said, that the judges would have too much power;—this was a misapprehension. He stated the powers of the judges with great clearness and precision. He insisted that their powers would be the same, whether this law was passed or not. For, as all treaties were known by the Constitution as the laws of the land, so must the judges act on the same, any law to the contrary notwithstanding.

Cicero, the great Roman orator and lawyer, lays it down as a rule, that when two laws clash, that which relates to the most important matters ought to be preferred? If this rule prevails, who can doubt what would be the conduct of the judges, should any laws exist inconsistent with the treaty of peace? But it would be impolitic to leave them to

the dilemma, either of infringing the treaty to enforce the particular laws of the State, or to explain away the laws of the State to give effect to the treaty.

He declared that the full operation of the bill would be no more than merely to declare the treaty the law of the land; and that the judges, viewing it as such, shall do away all laws that may appear in direct contravention of it. Treaties were known constitutionally to be the law of the land, and why be afraid to leave the interpretation of those laws to the judges? The Constitution knows them as the interpreters of the law. He asked if there was any member of the committee who would be willing to see the first treaty of peace ever made by this country violated. This he did not believe. He could not think that any member on that floor harbored such sentiments.

He was in hopes the committee would agree with him in sentiment, and give a proof of their attachment to our national engagements by passing the bill, which would do away every exception of the British court.

HAMILTON TO WILLIAM SHORT [1]

(Cabinet Paper.)

NEW YORK, October 7, 1789.

SIR:—I think it probable that you will have learnt, through other channels, before this reaches you, my

[1] The payment of the debt to France, which is the subject of this letter and others, is so closely interwoven with our relations with that country in the troubled times which followed the establishment of the government, that all documents in regard to it seem to come most appropriately under the head of foreign relations.

appointment as Secretary of the Treasury of the United States. In this capacity the debt due from us to France, will, of course, constitute one of the objects of my attention.

Except with regard to a few laws of immediate urgency, respecting commercial imposts and navigation, the late session of Congress was wholly occupied in organizing the government. A resolution, however, passed the House of Representatives, declarative of their opinion that an adequate provision for the support of the public credit was a matter of high importance to the honor and prosperity of the United States; and instructing me to prepare and report a plan for that purpose at their next session.

In this state of things you will readily perceive that I can say nothing very precise with regard to the provision to be made for discharging the arrearages due to France. I am, however, desirous that it should be understood that proper attention will be paid to the subject on my part; and I take it for granted that the National Legislature will not fail to sanction the measures which the faith and credit of the United States require in reference to it. In addition to this I shall only remark that it would be a valuable accommodation to the government of this country if the court of France should think fit to suspend the payment of the instalments of the principal due and to become due, for five or six years from this period, on the condition of effectual arrangements for the punctual discharge of the interest which has accrued and shall accrue. But in giving this intimation it is not my intention that any request should be made to

that effect. I should be glad that the thing might come about in the form of a voluntary and unsolicited offer; and that some indirect method may be taken to communicate the idea where it would be of use it should prevail. It may not be amiss that you should know that I have hinted the matter in the inclosed private letter to the Marquis de Lafayette, in forwarding which I request your particular care.

I have the honor to be, Sir,

Your obedient and humble servant,

ALEXANDER HAMILTON,

Secretary of the Treasury.

WILLIAM SHORT, *Chargé d'Affaires*, Paris.

P. S.—Since writing the above, I have, in a private and unofficial manner, broken the matter to the Count de Moustier; and I have reason to conclude he will promote what is desired.

HAMILTON TO WASHINGTON [1]

(Cabinet Paper.)

Memorandum of the Substance of a Communication made on Thursday, the Eighth of July, 1790, to the Subscriber, by Major Beckwith, as by Direction of Lord Dorchester

Major Beckwith began by stating that Lord Dorchester [2] had directed him to make his acknowledgments for the politeness which had been shown in

[1] If we except the informal mission of Morris to England, this interview appears to have been the first attempt of the administration to reopen friendly relations with England.

[2] Sir Guy Carleton, who had been the last English general in America. He was raised to the peerage as Lord Dorchester, and was at this time Governor of Canada.

respect to the desire he had intimated to pass by New York in his way to England; adding that the prospect of a war between Great Britain and Spain would prevent or defer the execution of his intention in that particular. He next proceeded to observe, that Lord Dorchester had been informed of a negotiation commenced on the other side of the water, through the agency of Mr. Morris, mentioning, as the subscriber understood, principally by way of proof of Lord Dorchester's knowledge of the transaction, that Mr. Morris had not produced any regular credentials, but merely a letter from the President directed to himself; that some delays had intervened, partly on account of Mr. Morris' absence on a trip to Holland, as was understood; and that it was not improbable these delays and some other circumstances may have impressed Mr. Morris with an idea of backwardness on the part of the British ministry. That his lordship, however, had directed him to say that an inference of this sort would not, in his opinion, be well founded, as he had reason to believe that the cabinet of Great Britain entertained a disposition not only toward a friendly intercourse, but toward an alliance, with the United States. Major Beckwith then proceeded to speak of the particular cause of the expected rupture between Spain and Britain, observing it was one in which all commercial nations must be supposed to favor the views of Great Britain. That it was therefore presumed, should a war take place, that the United States would find it to be their interest to take part with Great Britain rather than with Spain.

Major Beckwith concluded with producing a letter, signed "Dorchester," which letter contained ideas similar to those he had expressed, though in more guarded terms, and without any allusion to instructions from the British cabinet. This letter, it is now recollected, hints at the non-execution of the treaty of peace on our part.

On the subscriber remarking the circumstance that this letter seemed to speak only the sentiments of his lordship, Major Beckwith replied, that whatever reasons there might be for that course of proceeding in the present stage of the business, it was to be presumed that his lordship knew too well the consequence of such a step, to have taken it without a previous knowledge of the intentions of the cabinet.

Major Beckwith afterwards mentioned that Lord Dorchester had heard with great concern of some depredations committed by some Indians on our western frontier; that he wished it to be believed that nothing of this kind had received the least countenance from him; that, on the contrary, he had taken every proper opportunity of inculcating upon the Indians a pacific disposition towards us; and that, as soon as he had heard of the outrages lately committed, he had sent a message to endeavor to prevent them; that his lordship had understood that the Indians alluded to were banditti, composed chiefly or in a great part of Creeks or Cherokees, over whom he had no influence, intimating at the same time that these tribes were supposed to be in connection with the Spaniards.

He stated, in the next place, that his lordship had

been informed that a Captain Hait, in our service, and a Mr. Nimble, and indeed some persons in the treaty at Fort Harman, had thrown out menaces with regard to the posts on the frontier, and had otherwise held very intemperate language; which, however, his lordship considered rather as effusions of individual feelings than as the effects of any instruction from authority.

A. HAMILTON.

HAMILTON TO WASHINGTON

(Cabinet Paper.)

July 22, 1790.

On Thursday, the 22d instant, I had a second interview with Major Beckwith, in which I spoke to him nearly as follows.

I have made the proper use of what you said to me at our last interview.

As to what regards the objects of a general nature mentioned by you, though your authority for the purpose from Lord Dorchester is out of the question, and though I presume from his lordship's station and character, and the knowledge he appears to have of what is passing on the other side of the water, with regard to Mr. Morris, that the step he has taken through you is conformable to the views of your cabinet, and not without its sanction, yet you are no doubt sensible that the business presents itself in a shape which does not give the proper authenticity to that fact, and is wholly without formality. You must also be sensible that there is a

material difference between your situation and that of Mr. Morris. His credentials, though not formal, proceed from the proper source. Yours are neither formal nor authoritative.

This state of things will, of course, operate on what I am going to say on the subject. As to what relates to friendship between Great Britain and the United States, I conceive myself warranted in declaring that there is in the government of this country a sincere disposition to concur in obviating with candor and fairness all ground of misunderstanding which may now exist in reference to the execution of the late treaty of peace, and in laying the foundation of future good understanding, by establishing liberal terms of commercial intercourse.

As to alliance, this opens a wide field. The thing is susceptible of a vast variety of forms. 'T is not possible to judge what would be proper or what could be done, unless *points* were brought into view. If you are in condition to mention particulars, it may afford better ground of conversation.

I stopped here for an answer.

Major Beckwith replied, that he could say nothing more precise than he had already done.

That being the case (continued I), I can only say, that the thing is in too general a form to admit of a judgment of what may be eventually admissible or practicable. If the subject shall hereafter present itself to discussion in an authentic and proper shape, I have no doubt we shall be ready to converse freely upon it. And you will naturally conclude that we shall be disposed to pursue whatever shall appear

under all circumstances to be our interest, as far as may consist with our honor. At present I would not mean either to raise or repress expectation.

Major Beckwith seemed to admit that as things were circumstanced nothing explicit could be expected, and went on to make some observations, which I understood as having for object to sound whether there existed any connection between Spain and us; and whether the questions with regard to the Mississippi were settled.

Perceiving this, I thought it best to avoid an appearance of mystery, and to declare without hesitation,

"That there was no particular connection between Spain and the United States, within my knowledge, and that it was matter of public notoriety, that the questions alluded to were still unadjusted."

The rest of our conversation chiefly consisted of assurances on my part, that the menaces which had been mentioned by him as having been thrown out by some individuals with regard to the western posts were unauthorized, proceeding probably from a degree of irritation which the detention of the posts had produced in the minds of many, and of a repetition, on his part, of the assurances which he had before given of Lord Dorchester's disposition to discourage Indian outrages.

Something was said respecting the probable course of military operations, in case of a war between Britain and Spain, which Mr. Beckwith supposed would be directed towards South America; alleging, however, that this was mere conjecture on his part.

I hinted cautiously our dislike of any enterprise on New Orleans.

A. HAMILTON.

NOTE BY A. H.—Mr. Jefferson was privy to this transaction. The views of the government were to discard suspicion that any engagements with Spain, or intentions hostile to Great Britain, existed; to leave the ground in other respects vague and open, so as that in case of rupture between Great Britain and Spain, the United States ought to be in the best situation to turn it to account, in reference to the disputes between them and Great Britain on the one hand, and Spain on the other.

HAMILTON TO WILLIAM SHORT [1]

(Cabinet Paper.)

TREASURY DEPARTMENT, September 1, 1790.

SIR:—Two acts of the Legislature, of the fourth and twelfth of August, of which I inclose you copies, authenticated according to law, empower the President to cause to be borrowed on their behalf fourteen millions of dollars, subject to certain restrictions and qualifications, to be applied in payment of such part of our foreign debt as shall have become due, and to a new modification of the remainder, if it can be effected upon terms beneficial to the United States. The execution of this authority he has committed immediately to me, and ultimately through me to you; except as to three millions of florins, part of the above sum, of which, as you are informed, a loan has been anticipated by Messrs. Willinks, Van Staphorsts, and Hubbard, and of which a confirmation, with correspondent powers,

[1] This letter contains the general instructions of the government as to our financial policy abroad, including both payment of French debt and the management of Dutch and other loans.

has been sent directly to them. Among the documents which accompany this letter you will find a copy of the commission from the President to me, and a power founded on it from me to you.

It remains for me to give you some indications for your government, conformable to the general tenor of the instructions which I have received from the President, and of which I transmit a copy; premising that it is understood, between the Secretary of State and myself, that you are to proceed to Amsterdam without delay, and to continue there, in the first instance, for a term not less than three months.

A primary and principal object of your attention will be, to acquire as exact knowledge as may be of the footing upon which the different foreign powers who borrow in Holland have usually obtained their loans, since the commencement of our independence, and upon which they at present obtain them; the prices of foreign stock in the Dutch market, including our own; the state of our credit compared with that of other nations; the extent and the conditions to and upon which we shall be likely to borrow in case of war between England and Spain, and in the alternative of our being ourselves at peace or war; the principal houses and brokers concerned in the negotiations of foreign loans; their characters; comparative solidity and influence with the money-lenders; the terms upon which their agency is afforded to their employers; the manner in which those whom we have heretofore employed are understood to have conducted themselves in relation

to our interest and credit; and particularly their solidity and influence with the money-lenders.

Most if not all these inquiries will be immediately serviceable to you. They will all be productive of information useful to my department; and I will therefore thank you for successive communications of the result.

One consequence of them to you will be, that they will enable you to judge whether our confidence in our former commissioners or agents ought to be continued, or withdrawn in order to the substitution of others; or, if continued, whether the terms of their agency may not be meliorated; or whether, with their consent, some other house or houses may not be combined with them, with an increase of credit and resource to us.

These, as you will be sensible, are delicate points. They are, however, left to your prudence and discretion, according as facts shall be ascertained to you.

I shall only remark, that changes of public servants ought never to be made but for cogent reasons. If lightly made, they are not only chargeable with injustice and are a symptom of fickleness in the public counsels, but they destroy the motives to good conduct, and, in money concerns especially, are apt to beget a disposition to make the most of possession while it lasts. Circumspection in the present case is also recommended by the consideration that those whom we have heretofore trusted risked themselves and their fortunes upon our affairs, when the doing it was not without serious hazard. This is a reason

for permitting them to reap the benefits of our more prosperous days, if they have been faithful and are adequate to the trust. A further reason is, that they are now deeply interested in our funds, and consequently, it is presumable, in our credit. Competition and variance once existed between the house of Willinks and that of the Van Staphorsts; but these appear some time since to have been compromised. The latter have most merit for early exertions, the former are said to be most solid. This union is desirable for the greater security it affords.

Suggestions of this nature are not dictated by any distrust of the fidelity or good conduct of our former commissioners. As far as I know, they deserve well of us. My object is, in entering upon a new stage of our affairs, to have the ground over which we have passed well examined, that we may the better judge whether to continue or alter our course.

In the consideration of our foreign debt, it naturally divides itself into two parts; that which is now payable, and that which will be payable hereafter. The first we are bound to discharge as soon as may be, and upon the best terms we can. The last we are not bound to discharge but as the times of payment elapse, and therefore are not called upon to do it unless some positive advantage accrues from it to ourselves. This view of the matter governs the instructions of the President to me, which, of course, regulate mine to you.

You are accordingly to borrow, *on the best terms which shall be found practicable*, within the limitations prescribed by law, such sum or sums as shall

be sufficient to discharge as well all instalments or parts of the principal of the foreign debt, which now are due or shall become payable to the end of the year one thousand seven hundred and ninety-one, as all interest and arrears of interest which now are or shall become due in respect to the said debt to the same end of the year one thousand seven hundred and ninety-one. But you shall not extend the amount of the loans which you shall make or cause to be made beyond the sum which shall be requisite for that purpose, unless it can be done upon terms more advantageous to the United States than those upon which the residue of the said debt shall stand or be.

And in order that you may judge what will be due to the end of the year one thousand seven hundred and ninety-one, I refer you to the papers marked A and B, which contain statements of principal and arrears of interest of our foreign loans to that period; and shall, by the next opportunity, send you a copy of the contracts respecting them, from which you will derive a more accurate knowledge of their terms.

You will perceive, by the act which authorizes the loan for paying off the foreign debt, that there is no other restriction as to the terms except that, in the contracts to be made, the United States shall be left at liberty to reimburse the sum borrowed, within a period not exceeding fifteen years. As this seems to be the usual period for the reimbursement of moneys borrowed in Holland, that restriction can constitute no embarrassment.

In the second act there is no restriction as to time of repayment, but there is one as to the rate of interest, which must not exceed five per cent. This, however, I consider as compatible with the allowance of those premiums, commissions, and other charges which are customary in ordinary times; and which, I am informed, are, in the aggregate, about four and a half per cent. But the allowance of unusual or extraordinary premiums to obtain loans upon a nominal interest of five per cent., as well because it is a pernicious mode of borrowing as because it would be an invasion of the law, is inadmissible.

If war should continue or become more general in Europe, it is to be apprehended that the demand for money will raise its price upon us, and that loans will not be practicable upon so good terms as in time of peace. The situation of this country, too, authorizes us to expect that as our resources become more unfolded and better understood, we shall be able to borrow upon easier terms than we have at any time heretofore done. On both these accounts it would be very desirable, while we did not *oblige* ourselves to reimburse the principal borrowed in less than fifteen years, commencing at the end of ten, that we could stipulate for a right of reimbursing it sooner,—that is to say, either upon giving notice of our intention to do it for a limited time beforehand, or at the end of a short period, say five years. I should consider a stipulation of this kind as a valuable ingredient in your contracts.

I have intimated above the inexpediency of extra-

ordinary premiums to purchase a nominal low rate of interest. Against this error I would particularly guard you. It is sacrificing a real future interest to an *appearance*, at best, to temporary accommodation. A higher rate of interest upon a sum *actually* received, is preferable to a lower rate upon a nominal sum, with large deductions in the first instance, or considerable premiums afterwards; this will be more especially the case if we can reserve a right to repay when we please or after a short period; as we may reasonably contemplate, with the return of peace, a fall of interest.

But every thing of this kind is, after all, matter of calculation, and to be tested by the evidence of figures. I can only, therefore, mean to give you a caution, referring you to that test, and intimating to you this general principle, that the name of a low interest ought not to betray us into giving more for it in the shape of premium or discount than it is worth, and that, as we shall borrow at a time when circumstances will render interest high, we had better pay that interest on *actual value* received, than a lower one on a fictitious value, or for future and exaggerated compensations; reserving, as far as it can be done, the right of paying off at pleasure, or at an early period. The future fall of interest will, in the first case, turn to our advantage, in the last, to our disadvantage.

You will not pass unnoticed the circumstance that the laws contain actual appropriations of very adequate funds for the payment of interest upon the sums you shall borrow. The first act, indeed, after

reserving six hundred thousand dollars for the support of government, gives a priority in payment to the foreign debt out of revenues which are calculated upon the estimate of a much larger product. You may confidently assert that the duties hitherto have produced at the rate of one million eight hundred thousand dollars; which alone would leave twelve hundred thousand dollars, as the fund out of which the interest on your loans would be payable. But the augmentations which have been made in the rates are computed to be capable of affording an addition of eight hundred thousand dollars; and I believe the computation to be well founded.

You will also, no doubt, make a proper use in your communications of the actual situation and future prospects of this country. The economical scale of our establishments, civil and military; the comparative smallness of our debt; the reliance which may be had on the stability of our pecuniary arrangements *once made*, from the nature of our government in respect to the mutual checks inherent in its organization; the rapid progression of population and resources to which we may look forward; the actual and probable emigrations occasioned by the troubled state of Europe; the hope that we shall continue in peace, while other Powers are accumulating their debts by new wars; the very favorable situation in which we shall find ourselves at the end of a general war in Europe, if we avoid participating in it, etc., etc. These are topics which ought to have weight in our favor, and, within due limits, may be urged with force and assurance.

With regard to that part of the debt which does not become payable till after the year one thousand seven hundred and ninety-one, you will have observed that nothing is to be done by you in respect to it, unless it can be done upon terms *of advantage* to the United States. However cordial our disposition to come to the pecuniary aid of France in her present affecting and embarrassed condition, in this early stage of our finances we could not in prudence volunteer payments not due by the terms of the contract, especially, too, by the expedient of new *foreign* loans, unless it should be attended with some circumstance of advantage in the operation to ourselves. By this I understand a lower rate of interest.

For, according to my speculations on the probable rate of exchange between this country, France, and Holland, and between Holland and France for some years to come, I deem it better (whether our payments proceed directly from hence, or circuitously through Holland) to have to pay a given sum to France, than an equal sum to Holland.

The charges too upon the new loans will have to be taken into the account, and an indemnity for them included in the terms of the operation. Calculating only upon the ordinary ones, it does not appear to me that it would be the interest of the United States to change the form of this debt, unless the rate of interest on the new loans did not exceed four per cent. And I own that, in the present aspect of affairs, I see no ground to expect that loans will be obtained at so low a rate.

If the thing should be possible, it must be on the score of some collateral advantages to the lenders; such, for instance, as their being permitted to pay a part in the *effects* or *stock* of France, as was contemplated in the last negotiations. Whether any arrangement of this nature will be a desirable accommodation to France; whether persons of real capital, who would not in the execution be obliged to use means prejudicial to the credit of the United States, would be willing to embark in such a plan; whether it would prove an obstacle to other loans which we may have occasion to make for other purposes, are circumstances essential in determining its eligibility, which cannot be known to me, and can only be accurately judged of by one on the spot.

I suggest them as hints to you. In exploring or feeling the ground, you will recollect that propositions of such a nature ought not to come from us. If the thing should be capable of being placed upon a footing conducive to our interests, we ought only to appear to sanction what other parties desire of us. And we should in no event make any movement that may injure our reputation, or place us in the light of a people desirous of making hard bargains at the expense of friends.

Neither can I authorize you to conclude any general arrangement of this nature, without a previous communication of it to me, to be submitted to the consideration of the President; there being a separate instruction from him to me, that no loan shall be opened for more than a million of dollars, and that no new loan shall be undertaken until the

preceding one shall have been announced to him, and shall have received his sanction.

This limitation, therefore, in all your proceedings, you will of course attend to, and you will perceive the utility of making the earliest communication of every loan you shall set on foot, in order that you may know the determination of the President before its completion, and be prepared in time to commence another.

It has been suggested that loans may be made with advantage in certain parts of Italy. I do not count on this resource, but I shall be glad to know how far, from inquiry, it shall appear to be an eligible field for an experiment.

With regard to the application of the moneys to be borrowed, you will, from time to time, receive special directions.

The foregoing are the only observations which the time I have will permit me to make. They contain general indications of the course you are to pursue; the rest must be left to your judgment, circumspection, and delicacy. I doubt not you will be duly impressed with the importance of the trust; how much the interest and reputation of our government are concerned in its proper execution. And I feel a confidence that they will not suffer in your hands.

P. S.—I send for your information a copy of my letter to Messrs. Willinks & Co., by which you will perceive the footing on which the provisional loan of three millions of florins is placed.

HAMILTON TO WASHINGTON [1]

(Cabinet Paper.)

NEW YORK, September 15, 1790.

Answer to Questions Proposed by the President of the United States to the Secretary of the Treasury

QUESTION THE FIRST.—"What should be the answer of the Executive of the United States to Lord Dorchester, in case he should apply for permission

[1] Following close upon the Beckwith interview came indications that a very practical test might be put to our relations with England by the suggestion of Lord Dorchester that he might ask for permission to march troops across our territory as a preparation for the hostilities then impending between Spain and Great Britain. Washington took advice on the point thus raised from Jefferson, who advised that no answer should be made, the question, if put squarely, evaded, and should the British troops take silence for consent their march through our country could be then pressed as a grievance. The President then consulted John Adams and Hamilton. Both were agreed that the question, if put, should be answered at once, squarely and directly, and not evaded. Adams argued for a refusal of the permission (Adams' *Works*, vol. viii., p. 497), and his letters show the difficulties which encompassed the course he suggested. Hamilton advised consent, although with reluctance, because he felt that war, for which we were unprepared, was the only alternative. The paper discusses the international law of the question, and its political bearing as well, with great acuteness and ability, but it is chiefly interesting as the first exposition of Hamilton's views as to the foreign policy proper for the United States. The actual request was never made, but the discussion which its probability drew forth is valuable and instructive to the student of our history and of the development of our national policy.

The same question arose in 1862 when Lord Lyons asked permission to land troops at Portland, and march them through the State of Maine to Quebec, as the St. Lawrence was then blockaded with ice. These troops had, no doubt, been intended to act against the United States if the Trent affair had not been settled, but Mr. Seward, despite the difficulties of the situation, adopted Hamilton's view of the general question, and at once granted the permission, an act of courtesy which did much to allay the excited feeling then existing (Seward's *Works*, vol. v., p. 11).

to march troops through the territory of said States, from Detroit to the Mississippi?"

ANSWER.—In order to a right judgment of what ought to be done in such case, it may be of use previously to consider the following points:

First.—Whether there be a right to *refuse* or *consent*, as shall be thought most for the interest of the United States.

Secondly.—The consequences to be expected from *refusal* or *consent.*

Thirdly.—The motives to the one or to the other.

As to the first point, if it were to be determined upon principle only, without regard to precedents or opinions, there would seem to be no room for hesitation about the right to refuse. The exclusive jurisdiction which every independent nation has over its own territory, appears to involve in it the right of prohibiting to all others the use of that territory in any way disagreeable to itself, and more especially for any purpose of war, which always implies a degree of danger and inconvenience, with the exception only of cases of necessity.

And if the United States were in a condition to do it without material hazard, there would be strong inducements to their adopting it as a general rule never to grant a passage for a voluntary expedition of one power against another, unless obliged to it by treaty.

But the present situation of the United States is too little favorable to encountering hazards, to authorize attempts to establish rules, however eligible in themselves, which are repugnant to the received maxims or usages of nations.

It is therefore necessary to inquire what those maxims or usages enjoin in the case suggested.

With regard to usage, it has been far from uniform. There are various instances in ancient and modern times of similar permissions being demanded; many, in which they have been granted; others in which they have been refused, and the refusal acquiesced in; but perhaps more in which, when refused, a passage has been forced, and the doing of it has often been deemed justifiable.

Opinions are not more harmonious. Among those who may be considered as authorities on such subjects, Puffendorf and Barbeyrac confine within narrow limits *the right of passage* through neutral territories; while Grotius and Vatel, particularly the former, allow to it greater latitude. Puffendorf treats it not as a natural right, but as derived from compact or concession; especially when the enemy of a neighboring state desires leave to march troops through a neutral country against its neighbor. For it seems (says he) to be a part of *the duty which we owe to our neighbors*, especially such as have been kind and friendly, not to suffer any hostile power to march through our country to their prejudice, *provided we can hinder the design with no great inconvenience to ourselves*. And as it may have a tendency to make our own country the theatre of the war (since the power intended to be attacked may justifiably march within our limits to meet the approaching enemy), he concludes that it is the safest way of acting in such case, *if we can do it without any considerable prejudice to our own affairs*, to deny

the enemy passage, and *actually to oppose him* if he endeavors to force it without our consent. But if we are either too weak to hinder his progress, or must on this score engage in a dangerous war, he admits that the plea of necessity will fairly justify us to our neighbor.

Examples, he adds, have little force on the decision of the question. For, generally, as people have been stronger or weaker, they have required passage with modesty or with confidence, and have in like manner granted or refused it to others.[1]

Barbeyrac, in his Commentary on Grotius, is still stronger against the right of passage.[2] He affirms that, even though we have nothing to apprehend from those who desire a passage, we are not therefore obliged in rigor to grant it. It necessarily follows, says he, from the right of property, that the proprietor may refuse another the use of his goods. Humanity, indeed, requires that he should grant that use to those who stand in need of it, when it can be done without any considerable inconvenience to himself; but if he even then refuses it, though he transgresses his duty, he does no wrong, properly so called, *except they are in extreme necessity*, which is superior to all ordinary rules. Thus far, and no farther, extends the reserve with which it is supposed the establishment of property is accompanied.

Grotius, on the other hand, expresses himself thus[3]: A free passage ought to be granted to persons where *just occasion* shall require, over any lands, or rivers,

[1] Puffendorf's *Laws of Nature and Nations*, pp. 239, 240.

[2] Note 1 on Book II., chap. ii., § 13.

[3] *Rights of War and Peace*, Book II., chap. ii., § 13, Nos. 1, 2, 3, 4.

or such parts of the sea as belong to any nation; and, after enumerating several examples in support of his position, he concludes that the *middle opinion* is best; to wit, that the liberty of passing ought first to be demanded, and if denied, may be claimed by force. Neither, says he, can it be reasonably objected that there may be suspicion of danger from the passing of a multitude; for one man's right is not diminished by another man's fear. Nor is the fear of provoking that prince against whom he that desires to pass is engaged in a *just* war, a sufficient reason for refusing him passage. Nor is it any more an excuse that he may pass another way, for this is what everybody may equally allege, and so this right by passing would be entirely destroyed. But it is enough that the passage be requested, without any fraud or ill design, by the nearest and most convenient way. *If*, indeed, he who desires to pass undertakes an *unjust* war, or if he brings people who are my enemies along with him, I *may* deny him a passage; *for in this case* I have a right to meet and oppose him, even in his own land, and to intercept his march. Thus it would seem to be the opinion of Grotius, that a party engaged in a *just* war has a right, of course, to a passage through a neutral territory, which can scarcely, if at all, be denied him, even on the score of danger or inconvenience to the party required to grant it.

But Vatel, perhaps the most accurate and approved of the writers on the laws of nations, preserves a mean between these [1] different opinions.

[1] Book III., chap. vii., §§ 119, 120, 121, 122, 123.

This is the sum of what he advances: That an *innocent passage* is *due* to all nations with whom a state is at peace, for troops equally with individuals, and to annoy as well as to avoid an enemy. That the party asking and the party asked are both, in different degrees, judges of the question *when innocent?* That where the party asked has *good reasons* for refusing, he is not under any obligation to grant, and in *doubtful* cases his judgment *ought to be definitive;* but in evident ones, or those in which the harmlessness of the passage is manifest, the party asking may, in the last resort, judge for himself, and after *demand* and *refusal* may force his way. That nevertheless, as it is very difficult for the passage of a powerful army to be absolutely innocent, and still more difficult for its innocence to be apparent, a refusal ought to be submitted to, *except* in those *very rare* cases when it can be shown in the most palpable manner that the passage required is absolutely without danger or inconvenience. And lastly, that this right of passage is only *due* in a war *not materially unjust.*

Perhaps the only inference to be drawn from all this is, that there exists in the practice of nations and the dogmas of political writers a certain vague pretension to a right of passage in particular cases and according to circumstances, which is sufficient to afford to the strong a pretext for claiming and exercising it when it suits their interests, and to render it always dangerous to the weak to refuse, and sometimes not less so to grant it.

It is, nevertheless, a proper inquiry, whether a refusal could be placed on such ground as would give

a reasonable cause of umbrage to the party refused, and as in the eye of the world would justify it.

Against the propriety of a refusal are the following circumstances: that there is no connection between us and Spain, which obliges us to it; that the passage asked will be down rivers, and for the most part through an uninhabited wilderness, whence no injury to our citizens or settlements will be apprehended; and that the number of troops to be marched, especially considering the route, will probably not be such as, on their own account, to be a serious cause of alarm. These circumstances may give our refusal the complexion of partiality to Spain, and of indisposition towards Britain, which may be represented as a deviation from the spirit of exact neutrality.

In support of the propriety of a refusal, the following is the only assignable reason: that it is safer for us to have two powerful but *rival* nations bordering upon our two extremities, than to have one powerful nation pressing us on both sides, and in capacity, hereafter, by posts and settlements, to envelop our whole interior frontier.

The good offices of Spain in the late war; the danger of the seduction of our western inhabitants; the probable consequences to the trade of the Atlantic States, are considerations rather to be contemplated as motives, than alleged as reasons.

The first reason, however, is of a nature to satisfy the mind of the justice of a refusal; admitting the authority of the more moderate opinions, which have been cited. And the danger, too, upon the

supposition of which it is founded, appears to be obvious enough to vindicate it, in the opinion of the disinterested part of mankind; little likely as it may be to engage the acquiescence of the party whose wishes would be thwarted by the refusal. It deserves, notwithstanding, to be noticed on this point, that the ground of dissent would not result from the thing itself—that is, the *mere passage*,—but from the nature of the *acquisition*, to which it would give facility. This circumstance may somewhat obscure the clearness of the conclusion, that there is a perfect right to refuse.

But, upon the whole, there does not appear to be room enough for a scruple about the right to deter from refusal if, upon examination, it shall be found expedient.

Does the right of consenting to the passage stand upon ground equally unexceptionable?

This question Vatel answers in the following manner:[1] "When I have no reason to refuse the passage, the party against whom it is granted has *no room for complaint*, much less for making it a pretense for war; since I did no more than what the law of nations enjoins. Neither has he any right to require that I should deny the passage, because he is not to hinder me from doing what I think is agreeable to my duty, and *even* on occasion *when I might with justice deny the passage*, it is *allowable* in me *not to make use of* my right; *especially when I should be obliged to support my refusal by my sword.* Who will take upon him to complain of my having permitted

[1] Vatel, Book III., chap. vii., § 127.

the war to be carried into his own country, rather than draw it on myself? It cannot be expected that I should take up arms in his favor, unless obliged to by a treaty." And Puffendorf admits, as has been before noted, that if we are either *too weak* to hinder his progress, or must on that score engage in a *dangerous* war, the plea of necessity will fairly justify us to our neighbor.

Nothing need be added to reasoning so perspicuous and convincing. It does not admit of a moment's doubt, as a general rule, that a neutral state, unfettered by any stipulation, is not bound to expose itself to a war, merely to shelter a neighbor from the approaches of its enemy. It remains to examine, if there are any circumstances, in our particular case, capable of forming an exception to that rule.

It is not to be forgotten that we received from France, in our late revolution, essential succor, and from Spain valuable countenance and some direct aid. It is also to be remembered that France is the intimate ally of Spain, and there subsists a connection by treaty between the former power and the United States.

It might thence be alleged that obligations of gratitude towards those powers require that we should run some risk, rather than concur in a thing prejudicial to either of them, and particularly in favor of that very nation against which they assisted us. And the natural impulse of every good heart will second the proposition, till reason has taught it that refinements of this kind are to be indulged with caution in the affairs of nations.

Gratitude is a word, the very sound of which

imposes something like respect. Where there is even an appearance upon which the claim to it can be founded, it can seldom be a pleasing task to dispute that claim. But where a word may become the basis of a political system, affecting the essential interests of the state, it is incumbent upon those who have any concern in the public administration, to appreciate its true import and application.

It is necessary, then, to reflect, however painful the reflection, that gratitude is a duty, a sentiment, which between nations can rarely have any solid foundation. Gratitude is only due to a kindness or service, the predominant object of which is the interest or benefit of the party to whom it is performed. Where the interest or benefit of the party performing is the predominant cause of it, however there may result a debt, in cases in which there is not an immediate adequate and reciprocal advantage, there can be no room for the sentiment of gratitude. Where there is such an advantage, there is then not even a debt. If the motive of the act, instead of being the benefit of the party to whom it was done, should be a compound of the interest of the party doing it and of detriment to some other, of whom he is the enemy and the rival, there is still less room for so noble and refined a sentiment. This analysis will serve as a test of our true situation in regard both to France and Spain.

It is not to be doubted, that the part which the courts of France and Spain took in our quarrel with Great Britain, is to be attributed, not to an attachment to our independence or liberty, but to a desire

of diminishing the power of Great Britain by severing the British Empire. This they considered as an interest of very great magnitude to them. In this their calculations and their passions conspired. For this they united their arms with ours, and encountered the expenses and perils of war. This has been accomplished; the advantages of it are mutual; and so far the account is balanced.

In the progress of the war [1] they lent us money, as necessary to its success, and during our inability to pay they have forborne to press us for it. The money we ought to exert ourselves to pay with interest, and as well for the loan of it, as for the forbearance to urge the repayment of the sums which have become due, we ought always to be ready to make proportionate acknowledgments, and when opportunities shall offer, returns answerable to the nature of the service.

Let it be added to this, that the conduct of France in the manner of affording her aid, bore the marks of a liberal policy. She did not endeavor to extort from us, as the price of it, any disadvantageous or humiliating concessions. In this respect, however, she may have been influenced by an enlightened view of her own interest. She entitled herself to our esteem and good-will. These dispositions towards her ought to be cherished and cultivated; but they are very distinct from a spirit of romantic gratitude, calling for sacrifices of our substantial interests, preferences inconsistent with sound policy, or complaisances incompatible with our safety.

[1] France has made us one loan since the peace.

The conduct of Spain towards us presents a picture far less favorable. The direct aid we received from her during the war was inconsiderable in itself, and still more inconsiderable compared with her faculty of aiding us. She refrained from acknowledging our independence; has never acceded to the treaty of commerce made with France,—though a right of doing it was reserved to her,—nor made any other treaty with us; she has maintained possessions within our acknowledged limits without our consent; she perseveringly obstructs our sharing in the navigation of the Mississippi, though it is a privilege essential to us, and to which we consider ourselves as having an indisputable title. And perhaps it might be added upon good ground, that she has not scrupled to intrigue with leading individuals in the western country, to seduce them from our interests, and to attach them to her own.

Spain therefore must be regarded, upon the whole, as having slender claims to peculiar good-will from us. There is certainly nothing that authorizes her to expect we should expose ourselves to any extraordinary jeopardy for her sake. And to conceive that any considerations relative to France ought to be extended to her, would be to set up a doctrine altogether new in politics. The ally of our ally has no claim, as such, to our friendship. We may have substantial grounds of dissatisfaction against him, and act in consequence of them, even to open hostility, without derogating in any degree from what we owe to our ally.

This is so true, that if a war should really ensue

between Great Britain and Spain, and if the latter should persist in excluding us from the Mississippi (taking it for granted our claim to share in its navigation is well founded), there can be no reasonable ground of doubt that we should be at liberty, if we thought it our interest, consistently with our present engagements with France, to join Britain against Spain.

How far it might be expedient to place ourselves in a situation which, in case France should eventually become a party in the war, might entangle us in opposite duties on the score of the stipulated guaranty of her West India possessions, or might have a tendency to embroil us with her, would be a mere question of prudential and liberal calculation, which would have nothing to do with the right of taking side against Spain.

These are truths necessary to be contemplated with freedom, because it is impossible to foresee what events may spring up, or whither our interests may point; and it is very important to distinguish with accuracy how far we are bound, and where we are free.

However vague the obligations of gratitude may be between nations, those of good faith are precise and determinate. Within their true limits, they can hardly be held too sacred. But by exaggerating them, or giving them a fanciful extension, they would be in danger of losing their just force. This would be converting them into fetters, which a nation would erelong become impatient to break, as consistent neither with its prosperity nor its

safety. Hence, while it is desirable to maintain with fidelity our engagements to France, it is advisable, on all occasions, to beware that they oblige us to nothing towards Spain.

From this view of the subject, there does not appear any circumstance in our case capable of forming an exception to the general rule; and, as it is certain that there can hardly be a situation less adapted to war than that in which we now find ourselves, we can, with the greatest sincerity, offer the most satisfactory excuse to Spain for not withholding our consent, if our own interests do not decide us to a contrary course.

The conclusion from what has been said is, that there is a right either to refuse or consent, as shall be judged for the interest of the United States; though the right to consent is less questionable than the right to refuse.

The consequences to be expected from refusal or consent present themselves next to consideration. Those of consent shall be first examined.

An increase of the means of annoying us in the same hands is a certain ill consequence of the acquisition of the Floridas and Louisiana by the British. This will result not only from contiguity to a greater part of our territory, but from the increased facility of acquiring an undivided influence over all the Indian tribes inhabiting within the borders of the United States.

Additional danger of the dismemberment of the western country is another ill consequence to be apprehended from that acquisition. This will arise

as well from the greater power of annoying us, as from the different policy which it is likely would be pursued by that nation, if in possession of the key to the only outlet for the productions of that country. Instead of shutting, they would probably open, the door to its inhabitants, and by conciliating their good-will on the one hand, and making them sensible, on the other, of their dependence on them for the continuance of so essential an advantage, they might hold out to them the most powerful temptation to a desertion of their connection with the rest of the United States. The avarice and ambition of individuals may be made to co-operate in favor of those views.

A third ill consequence of that acquisition would be, material injury, in time to come, to the commerce of the Atlantic States. By rendering New Orleans the emporium of the products of the western country, Britain would, at a period not *very* distant, have little occasion for supplies of provisions for their islands from the Atlantic States; and for their European market they would derive from the same source copious supplies of tobacco and other articles now furnished by the Southern States: whence a great diminution of the motives to establish liberal terms of commercial intercourse with the United States collectively.

These consequences are all expressed or implied in the form of the question stated by the President. And as far as our consent can be supposed likely to have influence upon the event, they constitute powerful objections to giving it.

If even it should be taken for granted that our consent or refusal would have no influence either way, it would not even then cease to be disagreeable to concur in a thing apparently so inauspicious to our interests. And it deserves attention that our concurrency might expose us to the imputation either of want of foresight to discover a danger, or of vigor to withstand it.

But there is almost always in such cases a comparison of evils; and the point of prudence is, to make choice of that course which threatens the fewest or the least, or sometimes the least certain. The consequences of refusal are therefore to be weighed against those of consent.

It seems to be a matter taken for granted by the writers upon the subject, that a refusal ought to be accompanied with a resolution to support it, if necessary, by the sword; or, in other words, to oppose the passage, if attempted to be forced, or to resent the injury, if circumstances should not permit an effectual opposition. This, indeed, is implied in the nature of the thing; for to what purpose refuse, unless it be intended to make good the refusal? or how avoid disgrace, if our territories are suffered to be violated with impunity, after a formal and deliberate prohibition of passage?

There are cases in which a nation may, without ignominy, wink at an infraction of its rights; but this does not appear to be one of them. After having been asked its permission and having refused it, the presumption will be that it has estimated the consequences, calculated its means, and is prepared

to assert and uphold its rights. If the contrary of this should turn out to be its conduct, it must bring itself into contempt for inviting insult which it was unable to repel, and manifesting ill-will towards a power which it durst not resist. As, on the one hand, there cannot be conceived to be a greater outrage than to pass through our country, in defiance of our *declared* disapprobation; so, on the other, there cannot be a greater humiliation than to submit to it.

The consequence therefore of refusal, if not effectual, must be absolute disgrace or immediate war. This *appears*, at least, to be the alternative.

Whether a refusal would have the desired effect, is, at best, problematical. The presumption, perhaps, is, that Great Britain will have adverted to the possibility of it; and if, under the uncertainty of what would be our conduct, she should still have resolved on prosecuting the enterprise through our territory, that she will at the same time have resolved either to ask no questions, or to disregard our dissent. It is not unlikely that the reasoning of the British cabinet will have been to this effect: If the United States have no predilection for Spain, or if their views of their own interest are not opposed to the acquisition we meditate, they will not withhold their consent; if either the one or the other be the case, it ought to be determined beforehand, whether their enmity be a greater evil, than the projected acquisition a good; and if we do not choose to renounce the one, we must be prepared to meet the other.

A further ill consequence of the refusal, if in-

effectual, not *wholly* destitute of weight, is this, that Great Britain would then think herself under less obligation to keep measures with us, and would feel herself more at liberty to employ every engine in her power to make her acquisition as prejudicial to us as possible; whereas, if no impediment should be thrown in the way by us, more good humor may beget greater moderation, and, in the progress of things, concessions securing us may be made, as the price of our future neutrality. An explicit recognition of our right to navigate the Mississippi to and from the ocean, with the possession of New Orleans, would greatly mitigate the causes of apprehension from the conquest of the Floridas by the British.

The consequences of refusal or consent constitute leading motives to the one or to the other; which now claim a more particular discussion.

It has been seen that the ill effects to be apprehended from the conquest of the Spanish territories in our neighborhood are: an increase of the means whereby we may be hereafter annoyed, and of the danger of the separation of the western country from the rest of the Union; and a future interference with the trade of the Atlantic States, in a manner, too, not conducive to the general weal.

As far as there is a prospect that a refusal would be an impediment to the enterprise, the considerations which have been mentioned afford the strongest inducements to it. But if *that* effect of it be doubtful, the force of these inducements is proportionably diminished; if improbable, it nearly ceases. The prospect in this case would be, that a refusal would

aggravate instead of preventing the evil it was intended to obviate. And it must be acknowledged that the success of it is, at least, *very doubtful.*

The consideration that our assent may be construed into want of foresight or want of vigor, though not to be disregarded, would not be sufficient to justify our risking a war in our present situation. The cogent reasons we have to avoid a war are too obvious and intelligible, not to furnish an explanation of and an apology for our conduct in this respect.

Whatever may be the calculations with regard to the probable effect of a refusal, it ought to be predicated upon the supposition that it may not be regarded, and accompanied with a determination to act as a proper attention to national dignity would in such an event dictate. This would be to make war.

For it is a *sound maxim,* that a state had better hazard any calamities than submit tamely to absolute disgrace.

Now, it is manifest, that a government scarcely ever had stronger motives to avoid war, than that of the United States at the present juncture. They have much to dread from war; much to expect from peace; something to hope from negotiation, in case of a rupture between Britain and Spain.

We are but just recovering from the effects of a long, arduous, and exhausting war. The people but just begin to realize the sweets of repose. We are vulnerable both by water and land; without either fleet or army. We have a considerable debt in

proportion to the resources which the state of things permits the government to command. Measures have been recently entered upon for the restoration of credit, which a war could hardly fail to disconcert, and which, if disturbed, would be fatal to the means of prosecuting it. Our national government is in its infancy. The habits and dispositions of our people are ill-suited to those liberal contributions to the treasury which a war would necessarily exact. There are causes which render war in this country more expensive, and consequently more difficult to be carried on, than in any other. There is a general disinclination to it in all classes. The theories of the speculative, and the feelings of all, are opposed to it. The support of public opinion (perhaps more essential to our government than to any other) could only be looked for in a war evidently resulting from necessity.

These are general reasons against going into war. There are others, of a more particular kind. To the people at large the quarrel would be apt to have the appearance of having originated in a desire of shielding Spain from the arms of Britain. There are several classes of men to whom this idea would not be agreeable, especially if the Dutch were understood to be in conjunction with the British. All those who were not friendly to our late revolution would certainly dislike it. Most of the descendants of the Dutch would be unfriendly to it. And let it not be overlooked, that there is still a considerable proportion of those who were firm friends to the revolution, who retain prepossessions in favor of Englishmen, and prejudices against Spaniards.

In a popular government especially, however prejudices like these may be regretted, they are not to be excluded from political calculations.

It ought also to be taken into the account, that by placing ourselves at this time in a situation to go to war against Great Britain, we embark with the weakest party—with a total uncertainty what accession of strength may be gained—and without making any terms with regard either to succor, indemnity, or compensation.

France is the only weight which can be thrown into the scale, capable of producing an equilibrium. But her accession, however probable, ought not to be deemed absolutely certain. The predominant party there may choose to avoid war as dangerous to their own power. And if even obstacles should not arise from that quarter, it cannot be foreseen to what extent France will be in condition to make efforts. The great body of malcontents, comprehending a large proportion of the most wealthy and formerly the most influential class—the prodigious innovations which have been made—the general and excessive fermentation which has been excited in the minds of the people—the character of the prince, or the nature of the government likely to be instituted, as far as can be judged prior to an experiment—do not prognosticate much order or vigor in the affairs of that country for a considerable period to come.

It is possible, indeed, that the enthusiasm which the transition from slavery to liberty may inspire, may be a substitute for the energy of a good administration, and the spring of great exertions.

But the ebullitions of enthusiasm must ever be a precarious reliance. And it is quite as possible that the greatness, and perhaps immaturity, of that transition, may prolong licentiousness and disorder. Calculations of what may happen in France must be unusually fallible, not merely from the yet unsettled state of things in that kingdom, but from the extreme violence of the change which has been wrought in the situation of the people.

These considerations are additional admonitions to avoid, as far as possible, any step that may embroil us with Great Britain. It seems evidently our true policy to cultivate neutrality. This, at least, is the ground on which we ought to stand, until we can see more of the scene, and can have secured the means of changing it with advantage.

We have objects which, in such a conjuncture, are not to be neglected. The western posts, on one side, and the navigation of the Mississippi, on the other, call for a vigilant attention to what is going on. They are both of importance. The securing of the latter may be regarded in its consequences as essential to the unity of the empire.

But it is not impossible, if war takes place, that by a judicious attention to favorable moments, we may accomplish both by negotiation. The moment, however, we became committed on either side, the advantages of our position for negotiation would be gone. They would even be gone in respect to the party with whom we were in co-operation; for, being once in the war, we could not make terms as the condition of entering into it.

Though it may be uncertain how long we shall be permitted to preserve our neutrality, that is not a sufficient reason for departing from it voluntarily. It is possible we may be permitted to persist in it throughout. And if we must renounce it, it is better it should be from necessity than choice; at least till we see a prospect of renouncing with safety and profit. If the government is forced into a war, the cheerful support of the people may be counted upon. If it brings it upon itself, it will have to struggle with their displeasure and reluctance. This difference alone is immense.

The desire of manifesting amity to Spain, from the supposition that our permanent interest is concerned in cementing an intimate connection with France and Spain, ought to have no influence in the case. Admitting the existence of such an interest, it ought not to hurry us into premature hazards. If it should finally induce us to become a party, it will be time enough when France has become such, and after we shall have adjusted the condition upon which we are to engage.

But the reality of such an interest is a thing about which the best and the ablest men of this country are far from being agreed. There are of this number, who, if the United States were at perfect liberty, would prefer an intimate connection between them and Great Britain as most conducive to their security and advantage; and who are of opinion that it will be well to cultivate friendship between that country and this, to the utmost extent which is reconcilable with the faith of existing engagements; while the

most general opinion is, that it is our true policy to steer as clear as possible of all foreign connection, other than commercial and in this respect to cultivate intercourse with all the world on the broadest basis of reciprocal privilege.

An attentive consideration of the vicissitudes which have attended the friendships of nations, except in a very few instances, from very peculiar circumstances, gives little countenance to systems which proceed on the supposition of a permanent interest to prefer a particular connection. The position of the United States, detached as they are from Europe, admonishes them to unusual circumspection on that point. The same position, as far as it has relation to the possessions of European Powers in their vicinity, strengthens the admonition.

Let it be supposed that Spain retains her possessions on our right, and persists in the policy she has hitherto pursued, without the slightest symptom of relaxation, of barring the Mississippi against us; where must this end, and at a period not very distant? Infallibly in a war with Spain, or separation of the western country. This country must have an outlet for its commodities. This is essential to its prosperity, and if not procured to it by the United States, must be had at the expense of the connection with them. A war with Spain, when our affairs will have acquired greater consistency and order, will certainly be to be preferred to such an alternative. In an event of this sort, we should naturally seek aid from Great Britain. This would probably involve France on the opposite side, and

effect a revolution in the state of our foreign politics.

In regard to the possessions of Great Britain on our left, it is at least problematical whether the acquisition of them will ever be desirable to the United States. It is certain that they are in no shape essential to our prosperity. Except, therefore, the detention of our western posts (an object, too, of far less consequence than the navigation of the Mississippi), there appears no necessary source of future collision with that power.

This view of the subject manifests that we may have a more urgent interest to differ with Spain than with Britain; and that conclusion will become the stronger if it be admitted that when we are able to make good our pretensions, we ought not to leave in the possession of any foreign power the *territories* at the mouth of the Mississippi, which are to be regarded as the key to it.

While considerations of this nature ought not to weaken the sense which our government ought to have of any obligations which good faith shall fairly impose, they ought to inspire caution in adopting a system which may approximate us too nearly to certain powers, and place us at too great a distance from others. Indeed every system of this kind is liable to the objection, that it has a tendency to give a wrong bias to the counsels of a nation, and sometimes to make its own interest subservient to that of another.

If the immediate cause of the impending war between Britain and Spain be considered, there cannot be drawn from thence any inducements for our

favoring Spain. It is difficult to admit the reasonableness or justice of the pretensions on her part, which occasion the transactions complained of by Great Britain, and certainly the monopoly at which these pretensions aim is entitled to no partiality from any maritime or trading people. Hence, considerations, neither of justice nor policy, as they respect the immediate cause of the quarrel, incline us toward Spain.

Putting, therefore, all considerations of peculiar good-will to Spain or of predilection to any particular connection out of the question, the argument respecting refusal or consent in the case supposed seems to stand thus:

The acquisition of the Spanish territories bordering upon the United States, by Britain, would be dangerous to us. And if there were a good prospect that our refusal would prevent it, without exposing us to a greater evil, we ought to refuse; but if there be a considerable probability that our refusal would be ineffectual, and if being so it would involve us in war or disgrace, and if positive disgrace is worse than war, and war in our present situation worse than the chances of the evils which may befall us from that acquisition, then the conclusion would be that we ought not to refuse. And this appears to be the true conclusion to be drawn from a comprehensive and accurate view of the subject, though first impressions are on the other side.

These reflections also may be allowed to come in aid of it. Good or evil is seldom as great in the reality as in the prospect. The mischiefs we ap-

prehend may not take place. The enterprise, notwithstanding our consent, may fail. The acquisition, if made, may, in the progress of things, be wrested from its possessors. These if pressed hereafter (and we are willing to accept it), may deem it expedient to purchase our neutrality by a cession to us of that part of the territory in question which borders on the Mississippi, accompanied with a guaranty of the navigation of that river. If nothing of this sort should happen, still the war will necessarily have added millions to the debt of Britain, while we shall be recruiting and increasing our resources and our strength. In such a situation she will have motives of no inconsiderable force for not provoking our resentment. And a reasonable confidence ought to be reposed in the fidelity of the inhabitants of the western country in their attachment to the Union, in their real interest to remain a part of it, and in their sense of danger from the attempt to separate, which, *at every hazard*, ought to be resisted by the United States.

It is also to be kept in view that the *same* danger, if not to the *same* extent, will exist, should the territories in question *remain in the hands of Spain.*

Besides all this, if a war should ever be deemed a less evil than the neighborhood of the British in the quarter meditated, good policy would still seem to require, as before intimated, that we should avoid putting ourselves in a situation to enter into it till we had stipulated adequate indemnities and considerations for doing so; that we should see a little further into the unravelment of the plot, and be

able to estimate what prospect there would be by our interference of obviating the evil. It deserves a reflection, that if those territories have been once wrested from Spain she will be more tractable to our wishes, and more disposed to make the concessions which our interests require, than if they never passed into other hands.

A question occurs here whether there be not a middle course between refusal and consent; to wit, the waiving an answer, by referring the matter to further consideration. But to this there appear to be decisive objections. An evasive conduct in similar cases is never dignified—seldom politic. It would be likely to give satisfaction to neither party—to effect no good—to prevent no ill. By Great Britain it would probably be considered as equivalent to a refusal—as amounting to connivance by Spain—as an indication of timidity by all the world.

It happens that we have a post on the Wabash, down which river the expedition, it is presumable, must go. If the commanding officer at that post has no orders to the contrary, it will be his duty to interrupt the passage of the British troops; if he does, it would seem necessary for them, in order to the safe passage of their boats, with their artillery, stores, provisions, and baggage, to take that post. Here then would be a passage through our territory, not only without our permission, but with the capture of a post of ours, which would be in effect making war upon us. And thus silence, with less dignity, would produce the same ill consequence as refusal.

If, to avoid this, private orders were to be sent to

the commanding officer of that post not to interrupt the passage, his not being punished for his delinquency would betray the fact and afford proof of connivance.

The true alternative seems to be to refuse or consent; and, if the first be preferred, to accompany it with an intimation, in terms as free from offence as possible, that dispositions will be made to oppose the passage, if attempted to be forced; and accordingly, as far as practicable, to make and execute such dispositions.

If, on the contrary, consent should be given, it may deserve consideration whether it would not be expedient to accompany it with a candid intimation that the expedition is not agreeable to us, but that thinking it expedient to avoid an occasion of controversy, it has been concluded not to withhold assent. There are, however, objections to this mode. In case of consent, an early and frank *explanation should be given* to Spain.

QUESTION THE SECOND.—"What notice ought to be taken of the measure, if it should be undertaken without leave, which is the more probable proceeding of the two?"

If *leave* should be *asked* and *refused*, and the enterprise should be prosecuted without it, the manner of treating it has been anticipated—that is, the passage, if practicable, should be opposed; and if not practicable, the outrage should be resented by recourse to arms.

But if the enterprise should be undertaken with-

out *asking* leave, which is presumed to be the import of the question, then the proper conduct to be observed will depend upon the circumstances.

As the passage contemplated would be by water, and almost wholly through an uninhabited part of the country, over which we have no *actual* jurisdiction, if it were unaccompanied by any violence to our citizens or posts, it would seem sufficient to be content with remonstrating against it, but in a tone that would not commit us to the necessity of going to war; the objections to which apply with full force here.

But if, as it is to be feared will necessarily be the case, our post on the Wabash should be *forced*, to make good their passage, there seems to be no alternative but to go to war with them, unwelcome as it may be. It seems to be this, or absolute and unqualified humiliation; which, as has been already noticed, is in almost every situation a greater evil than war.

In every event, it would appear advisable immediately to convene the Legislature; to make the most vigorous measures for war; to make a formal demand for satisfaction; to commence negotiations for alliances; and if satisfaction should be refused, to endeavor to punish the aggressor by the sword.

ALEXANDER HAMILTON,
Secretary of the Treasury.

HAMILTON TO WASHINGTON [1]

(Cabinet Paper.)

NEW YORK, September 30, 1790.

SIR:—I had lately a visit from a *certain gentleman*, the sole object of which was to make some observations of a delicate nature concerning *another gentleman* employed on a *particular errand;* which, as they were doubtless intended for your ear (and, such as they are, ought to be known to you), it is of course my duty to communicate.

He began (in a manner somewhat embarrassed, which betrayed rather more than he seemed to discover) by telling me that, in *different companies* where he had happened to be *in this* city (a circumstance, by the way, very unlikely), he had heard it mentioned that that *other gentleman* was upon terms of very great intimacy with the representative of a

[1] Gouverneur Morris had been sent to England by Washington, in an informal and unofficial manner, to open relations once more with that country, and obtain the performance of treaty obligations. Before presenting his credentials, Morris made the mistake of disclosing to his old friend Luzerne, formerly Minister to the United States, and at this time Minister to London, the object of his visit. Luzerne allowed this fact to become known, and there was much jealousy aroused by this apparent close connection with France, which hindered greatly the advancement of Morris' mission. Complaint found its way to the American Government through Lord Dorchester. The "certain gentlemen" of Hamilton's letter, is Major Beckwith; "another gentleman employed on a particular errand" is Morris; and Luzerne is the "representative of a certain court." The head of the opposition party was Fox. Morris doubted whether Luzerne had betrayed him, but this fact seems proved. Morris alleged further that he avoided Fox purposely, and only saw him twice. It is more than probable that both these accusations were mere pretences, put forward by the Tory government to delay doing us justice under the treaty, and quietly injure so far as possible the successful and now thriving rebels, whom they had failed to conquer.—See *Life of G. Morris*, i., p. 347.

certain court at the one where he was employed, and with the head of the party opposed to the minister; and he proceeded to say that, if there were any symptoms of backwardness or coolness in the minister, it had occurred to him that they might possibly be occasioned by such *an intimacy;* that he had no intimation, however, of this being the case, and that the idea suggested by him was mere matter of conjecture; that he did not even know it was a fact that the intimacy subsisted. But if this should be the case (said he), you will readily imagine that it cannot be calculated to inspire confidence or facilitate free communication. It would not be surprising if a very close connection with the representative of another power should beget doubts and reserves; or if a very familiar intercourse with the head of the opposition should occasion prejudice and distance. Man, after all, is but man; and though the minister has a great mind, and is as little likely as most men to entertain illiberal distrusts or jealousies, yet there is no saying what might be the effect of such conduct upon him. It is hardly possible not to have some diffidence of those who seem to be very closely united with our political or personal enemies or rivals. At any rate, such an intimacy, if it exists, can do no good, but may do some harm.

This, as far as I recollect, was the substance of what he said. My answer was nearly as follows:—

I have never heard a syllable, sir, about the matter you mention. It appears to me, however, very possible that an intimacy with both the persons you mention may exist: with the first, because the situa-

tion of the parties had naturally produced such an intimacy while both were in this country, and to have dropped and avoided it there would not have been without difficulty, on the score of politeness, and would have worn an extraordinary and mysterious aspect; with the last, from the patronage of American affairs, which is understood to have been uniformly the part of that gentleman, and, in some degree, from a similarity of dispositions and characters—both brilliant men, men of wit and genius, both fond of the pleasures of society. It is to be hoped that appearances which admit of so easy a solution will not prove an obstacle to any thing which mutual interest dictates. It is impossible that there can be any thing wrong.

He replied, that he certainly had no idea that there could be any thing wrong; but that as trifles often mar great affairs, he thought it best to impart to me his conjecture, that such use might be made of it as should be thought advisable.

I have the honor to be, etc.

P. S.—The letters herewith were, through hurry, omitted in my despatch of yesterday.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

PHILADELPHIA, January 11, 1791.

DEAR SIR:—I have perused with attention your intended report to the President, and will, as I am sure is your wish, give you my opinion with frankness.

As far as a summary examination enables me to

judge, I agree in your interpretation of the treaty.[1] The exemption sought does not appear to be claimable as a right. But I am not equally well satisfied of the policy of granting it on the ground you suggest. This, in my mind, stands in a very questionable shape. Though there be a collateral consideration, there is a want of reciprocity in the thing itself; and this is a circumstance which materially affects the general policy of our navigation system. The tendency of the measure would be to place French vessels upon an equal footing with our own *in our ports*, while our vessels in the ports of France may be subjected to all the duties which are there laid on the mass of foreign vessels. I say the mass of foreign vessels, because the title of "most favored nation" is a very extensive one, the terms being almost words of course in commercial treaties. And consequently our own vessels in the carrying trade between the United States and France would be in a worse situation than French vessels. This is the necessary result of equal privileges on one side and unequal on the other, in favor of the vessels of France.

Though, in the present state of the French navigation, little would be to be apprehended from the regulation; yet, when the probable increase of that navigation under a free government is considered, it can hardly be deemed safe to calculate future consequences from the actual situation in this respect.

[1] This refers undoubtedly to our treaty with France. What the precise exemption was which was sought is not clear, although indicated in this and the next letter. There is no evidence that this "intended" report was ever made; at least it is not found in Jefferson's works nor in those of Washington.

And if the principle of the regulation cannot be deemed safe in a permanent view, it ought not to be admitted temporarily; for inconvenient precedents are always embarrassing.

On the whole, I should be of opinion that the introduction of such a principle without *immediate* reciprocity would be a high price for the advantage which it is intended to compensate.

It will, no doubt, have occurred to you that the fund has been mortgaged for the public debt. I do not, however, mention this as an insuperable objection; but it would be essential that the same act which would destroy this source of revenue should provide an equivalent. This I consider as a rule which ought to be sacred, as it affects public credit.

I have the honor to be, etc.

P. S.—If you have any spare set of the printed papers, I should be obliged by having them.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

January 13, 1791.

DEAR SIR:—I thank you for the printed papers you have been so obliging as to send.

I cannot forbear a conjecture that the communications of the Chargé des Affaires of France are rather expedients to improve a moment in which it is perceived questions concerning navigation are to be discussed, than the effects of serious instructions from his court.

Be this as it may, I really have not thought of any

substitute for your proposition to which objections do not lie. And, in general, I have doubts of the eligibility of *ex-parte* concessions, liable to be resumed at pleasure. I had rather endeavor, by a new treaty of commerce with France, to extend reciprocal advantages, and fix them on a permanent basis. This would not only be more solid, but it would, perhaps, be less likely, than apparently gratuitous and voluntary exemptions, to beget discontents elsewhere, especially (as ought to be the case) if each party should be at liberty, for equivalent considerations, to grant like privileges to others. My commercial system turns very much on giving a free course to trade, and cultivating good humor with all the world. And I feel a particular reluctance to hazard any thing, in the present state of our affairs, which may lead to a commercial warfare with any Power; which, as far as my knowledge of examples extends, is commonly productive of mutual inconvenience and injury, and of dispositions tending to a worse kind of warfare. Exemptions and preferences which are not the effect of treaty, are apt to be regarded by those who do not partake in them as proofs of an unfriendly temper towards them.[1]

[1] Although the precise point involved is lost, the general purport of this and the preceding letter is clear. Jefferson was considering whether to recommend some treaty construction favorable to France. Hamilton civilly disagreed on being consulted, and the matter appears to have dropped.

WASHINGTON TO THE PRESIDENT OF THE NATIONAL ASSEMBLY OF FRANCE

Draft by Hamilton.[1]

(Cabinet Paper.)

PHILADELPHIA, 27th January, 1792.

SIR:—I received with particular satisfaction, and imparted to Congress, the communication made by the President's letter of the 20th of June last in the name of the National Assembly of France. So peculiar and so signal an expression of the esteem of that respectable body for a citizen of the United States, whose eminent and patriotic services are indelibly engraved on the minds of his countrymen, cannot fail to be appreciated by them as it ought to be. On my part, I assure you, sir, that I am sensible of all its value.

The circumstances which, under the patronage of a monarch who has proved himself to be the friend of the people over whom he reigns, have promised the blessings of liberty to the French nation, could not have been uninteresting to the free citizens of the United States, especially when they recollected the dispositions which were manifested by the individuals as well as by the government of that nation toward their still recent exertions in support of their own rights.

It is with real pleasure, sir, that I embrace the opportunity now afforded me of testifying, through you, to the National Assembly, the sincere, cordial,

[1] This draft of a reply to the communication of the French Assembly on the death of Franklin was adopted verbatim by Washington and sent to France.—*Writings of Washington*, X., 133.

and earnest wish I entertain, that their labors may speedily issue in the firm establishment of a constitution which, by wisely conciliating the indispensable principles of public order with the enjoyment and exercise of the essential rights of man, shall perpetuate the freedom and happiness of the people of France.

The impressions naturally produced by similarity of political sentiment are justly to be regarded as causes of national sympathy, calculated to confirm the amicable ties which may otherwise subsist between nations. This reflection, independent of its more particular reference, must dispose every benevolent mind to unite in the wish that a general diffusion of the true principles of liberty, assimilating as well as ameliorating the condition of mankind, and fostering the maxims of an ingenuous and virtuous policy, may tend to strengthen the fraternity of the human race, to assuage the jealousies and animosities of its various subdivisions, and to convince them more and more that their true interest and felicity will best be promoted by mutual goodwill and universal harmony.

The friendship to which the President alludes in the close of his letter, has caused me to perceive with particular pleasure that one who had endeared himself to this country by an ardent zeal and by useful efforts in the cause of liberty has, by the same title, acquired the confidence and affection of his own. May it ever be his chief aim to continue to be beloved, as one of her most virtuous and most faithful citizens.

I beg you to accept my acknowledgments for the sentiments in the same letter, which relate more particularly to myself, and at the same time to be assured of the most perfect consideration on the part of, etc.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

TREASURY DEPARTMENT, April 12, 1791.

SIR:—I have perused the papers [1] communicated to you by the Chargé des Affaires of France.

The propositions to which they relate, as far as they are understood, appear to me inadmissible. The only advantage they offer to the United States is a prolongation of the time of reimbursement. The rate of interest is to remain the same, and the place of payment, according to the probable course of exchange, is to be altered for the worse from Paris to Amsterdam. A premium of five per cent. is also required, while the charges on the loans we make in Holland do not exceed four. There is, however, a proposition which is not understood: it is that the exchange on the sum to be paid at Paris and received at Amsterdam shall be regulated according to the *tariff* announced in the law of Congress. Now there is nothing in the laws of the United States to which I can apply the term tariff. It is possible, however, that Mr. Short's letters, when received, may throw light on this point and some others, which may give a different complexion to the business.

[1] Relating to the payment of our debt to France.

But there are various collateral considerations in relation to the transfer of the debt due from the United States to France, affecting the credit and financial operations of this country, which will make it in almost any form a delicate operation.

It is desirable on every account to make expeditious payment to France, but this desire must be conciliated with that of invigorating and perfecting the system of public credit of the United States, and in adhering to this idea there is the additional inducement of a tolerable prospect of satisfying the claims of France in a manner perhaps as expeditious and probably more efficacious than would be incident to an acquiescence in the proposed plan.

I have the honor to be, with great respect, etc.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

TREASURY DEPARTMENT, April 15, 1791.

SIR:—The letter you sent me from Mr. Short, and others which I have received since mine to you, confirm the views of the subject therein taken. This you will perceive from the following passages extracted from one of them: "Since then (speaking of former overtures) another company has presented itself for the same object, with a scheme by which the United States are to make the *sacrifices* on which *they* count for their profits." "The object of this company is, as you will see, to pay livres tournois in their present depreciated state, and to receive from

the United States florins at the usual exchange; by this means France would receive from them *as much as she is entitled to receive from us*, but we should be obliged to pay the company *much more than we are obliged to pay France.*" "Had I had powers competent to the purpose, I should not have thought myself justified to have opened such a negotiation, where there was *all loss* and *no prospect of advantage* to the United States." "* * * I must also add that the house which makes these propositions is *entirely unknown* here, and that France feared even their names at Paris, which proves that it must be an inconsiderable one." Consequently, the credit of the United States would be in imminent danger of suffering in their hands.

I have authorized Mr. Short to apply a million and a half of florins of the loan he has opened to the use of France, and shall press as large payments as may be practicable to her.

I take it for granted that the court of France will not attempt any operation with the debt without the consent of the United States. Any thing of this sort, considering the efforts which are making on our part to discharge the debt, would certainly be very exceptionable. Indeed, I do not see how any valid disposition of the debt of a sovereign power can be made without its consent; but it would be disagreeable to have to use this argument. I trust it will never be rendered necessary.

HAMILTON TO WASHINGTON [1]

(Cabinet Paper.)

PHILADELPHIA, September 22, 1791.

SIR:—I have received a letter from the Minister of France, of which the enclosed is a copy. Having full authority from you in relation to payments to France, and there being funds out of which that which will constitute the succor requested may with propriety be made, and being fully persuaded that in so urgent and calamitous a case you will be pleased with a ready acquiescence in what is desired, I have not hesitated to answer the Minister that the sum he asks is at his command.

With the most perfect respect and truest attachment, etc.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

March, 1792.

Mr. Hamilton presents his respectful compliments to the Secretary of State. He has perused, with as much care and attention as time has permitted, the draft of a letter in answer to that of Mr. Hammond, of March 5th.[2]

Much *strong* ground has been taken, and *strongly* maintained, particularly in relation to:

[1] The letter enclosed from De Ternant, the French Minister, set forth the distress in Hispaniola owing to negro insurrection, and asked for an advance in payment of the French debt, to purchase provisions and relieve the distress of the French colony.

[2] Jefferson's answer to Hammond's letter of March 5th, although he appears to have consulted Hamilton in regard to it during the same month, was not sent until May 29, 1792. It was long, able, and elaborate.—See *Jefferson's Works*, iii., 365.

The *recommendatory* clauses of the treaty;

The previous infractions by Great Britain, as to *negroes* and posts;

The question of interest.

And many of the suggestions of the British Minister, concerning particular acts and adjudications, as far as can be judged without consulting the documents, appear to be satisfactorily obviated.

But doubts arise in the following particulars:

1st. The expediency of the retaliation on the 1st, 2d, and 3d pages. Much of the propriety of what is said depends on the question of the original *right* or *wrong* of the war. Should it lead to observations on that point, it may involve an awkward and irritating discussion. Will it not be more dignified, as well as more discreet, to observe, concisely and generally, on the impropriety of having deduced imputations from transactions during the war, and (alluding in the *aggregate*, and without *specification*, to the instances of legislative warfare on the part of the British Parliament which might be recriminated) to say that this is foreborne, as leading to an unprofitable and unconciliating discussion?

2d. The soundness of the doctrine (page 4), that all governmental acts of the *States* prior to the 11th of April are out of the discussion. Does not the term "*subjects*," to whom, according to Vatel, notice is necessary, apply merely to individuals? Are not *States* members of the federal league, the *parties contractantes*, "who are bound by the treaty itself, from the time of its conclusion; that is, in the present case, from the time the provisional treaty took

effect, by the ratification of the preliminary articles between France and Britain?"

3d. The expediency of so full a justification of the proceedings of certain States with regard to debts. In this respect *extenuation* rather than vindication would seem to be the desirable course. It is an obvious truth, and is so stated, that Congress alone has the right to pronounce a breach of the treaty, and to fix the measure of retaliation. Not having done it, the States which undertook the task for them, contravened both their federal duty and the treaty. Do not some of the acts of Congress import that the thing was viewed by that body in this light? Will it be well for the Executive now to implicate itself in too strong a defence of measures which have been regarded by a great proportion of the Union, and by a respectable part of the citizens of almost every State, as exceptionable in various lights? May not too earnest an apology for instalment and paper-money laws, if made public hereafter, tend to prejudice, somewhat, the cause of good government, and, perhaps, to affect disadvantageously the character of the general government?

To steer between too much *concession* and too much justification in this particular, is a task both difficult and delicate; but it is worthy of the greatest circumspection to accomplish it.

4th. The expediency of risking the implication of the *tacit approbation* of Congress of the "retaliations of four States" by saying that they neither *gave* nor *refused* their sanction to those retaliations. Will not the national character stand better if no ground

to suspect the connivance of the national government is afforded? Is it not the fact that Congress were inactive spectators of the infractions which took place, because they had no effectual power to control them?

5th. The truth of the position, which seems to be admitted (page 57), that the quality of *alien enemy* subsisted till the definitive treaty. Does not an *indefinite cessation* of hostilities, founded too on a preliminary treaty, put an end to the state of war, and consequently destroy the relation of alien enemy?

The state of war may or may not revive if points which remain to be adjusted by a definitive treaty are never adjusted by such a treaty; but it is conceived that a definitive treaty may never take place, and yet the *state* of *war* and all its consequences be completely terminated.

6th. The expediency of grounding any argument on the supposition of either party being in the *wrong* (as in page 65). The rule in construing treaties is to suppose both parties in the right, for want of a *common judge*, etc. And a departure from this rule in argument might possibly lead to unpleasant recrimination.

The foregoing are the principal points that have occurred on one perusal. They are submitted without reserve. Some lesser matters struck, which would involve too lengthy a commentary; many of them merely respecting particular expressions. A mark + is in the margin of the places, which will probably suggest to the Secretary of State, on

revision, the nature of the reflections which may have arisen. It is imagined that there is a small mistake in stating that Waddington paid no rent.[1]

JEFFERSON TO HAMILTON[2]

(Cabinet Paper.)

March 5, 1792.

Thomas Jefferson will be glad if the Secretary of the Treasury will state the specific propositions he would have made to Spain, on the subject of our fish, grain, and flour, to wit, what he would ask, and what propose as an equivalent. The following considerations will of course occur to him:

1. If we quit the ground of *the most favored nation*, as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience, and I apprehend that our commissioners might soon be out of their depth in the details of commerce.

2. If we grant favor to the wines, etc., of Spain, Portugal and France will demand the same, and may create the equivalent, the former by laying duties on our fish and grain, the latter by a prohibition of our whale oils, the removal of which will be proposed as the equivalent.

[1] Jefferson accepted and adopted Hamilton's suggestions in all except the second and third objections. See *Hamilton's Works*, J. C. Hamilton edition, iv., p. 144, Jefferson to Hamilton, March, 1791, a letter not found in Jefferson's Works. Both Hamilton's letter and Jefferson's reply are misdated by J. C. Hamilton. Hammond did not arrive until the autumn of 1791, and this letter was written in March, 1792, not 1791, as J. C. Hamilton has it.

[2] Not printed in Jefferson's Works. This request for information is probably in connection with the next letter of criticism on the report.

HAMILTON TO JEFFERSON

March, 1792.

The general tenor of the report [1] appears solid and proper.

The following observations, however, on a hasty perusal occur.

Page 2. Is it to put our revolution upon the *true* or the best footing, to say that the circumstances which obliged us to discontinue our foreign magistrate *brought upon us the war?* Did not the war previously exist and bring on the *discontinuance?* Was it not rather the *cause* than the effect? [2]

Is it *accurate* to say that France aided us in capturing the *whole army* of the enemy? Does this not imply that there was no other enemy-army in the country; though there were in fact two others, one in New York, another in South Carolina? This last is a mere criticism as to the accuracy of expression. The sense is clear enough.[3]

Page 11. Are "*naval victories*" the essential means of conquest of a *water*, as seems to be implied? Is not the conquest of a *water* an incident to that of territory? [4] If this idea is not sound, that combined with it is,—namely, that in no event

[1] Jefferson's report on the negotiations with Spain as to free navigation of the Mississippi, sent in March 18, 1792.—See *Jefferson's Works*, vii., 570.

[2] *These notes are in the hand of Jefferson.* "The report is amended in conformity with this observation."

[3] "The capture of the army struck out."

[4] "No conquest of the territory was made, to wit, of the island of New Orleans on the one side, or Louisiana on the other, as both had belonged to Spain before the war. Therefore no change in the right to the water as incident to the territory. This circumstance, however, is inserted in the report to make the reasoning the clearer."

could Spain be considered as having *conquered the river against* the United States, with whom she not only had no war, but was an associate.

Page 12. May it not be inferred from what is said here, that though the United States would not *wish* to insert an express stipulation against other nations, yet they may be prevailed upon to do it? Would such a stipulation be consistent with the right which Great Britain reserved to herself in the treaty with us? If the influence alluded to is intended to be excluded, will it not be advisable to vary the turn of expression so as to render the intention more unequivocal? [1]

Page 23. Are there conclusive reasons to make it a *sine qua non* that no phrase shall be admitted which shall express or *imply* a grant? Could the negotiation with propriety be broken off on such a point?

Is it not rather one to be endeavored to be avoided, than the avoiding of it to be made a *sine qua non?* [2]

Page 25. Is it true that the United States have no right to *alienate an inch* of the territory in question, except in the case of necessity, intimated in another place? Or will it be useful to avow the denial of such a right? It is apprehended that the doctrine which restricts the alienation of territory to cases of *extreme necessity*, is applicable rather to

[1] The word *choose* substituted for *wish;* however, England could hold that right of command in the water only as incident to Florida, which she then held. When she conveyed Florida to Spain, the incident passed by the same consequence, and she can never have a claim against us on a stipulation, the benefit of which she has conveyed to another.

[2] Report altered in conformity to this.

peopled territory than to waste and uninhabited districts. Positions restraining the right of the United States to accommodate to exigencies which may arise, ought ever to be advanced with great caution.[1]

Page 28. Is it true that the stipulation with France respecting the reception of prizes is *exclusive* and incommunicable? It is doubtless so as against France, but why is it so as against other nations?

It is, however, a stipulation very inconvenient and even dangerous to the United States, and one which ought by all means to be excluded.[2]

Though a treaty of commerce like that contemplated in the report ought not to be rejected, if *desired* by Spain, and coupled with a satisfactory adjustment of the *boundary* and *navigation*, yet ought not something more to be *attempted*, if it were only to give satisfaction to other parts of the Union?

[1] The power to alienate the *unpeopled* territory of any State is not among the enumerated powers given by the Constitution to the General Government, and if we may go out of that instrument, and *accommodate to exigencies which may arise*, by alienating the *unpeopled* territory of a State, we may accommodate ourselves a little more by alienating that which is *peopled*, and still a little more by selling the *people* themselves. A shade or two more in the degree of exigency is all that will be requisite, and of that degree we shall ourselves be the judges. However, may it not be hoped that these questions are forever laid to rest by the 12th amendment, now made a part of the Constitution, declaring expressly that the powers not delegated to the United States by the Constitution are reserved to the States respectively? And if the General Government has no power to alienate the territory of a State, it is too irresistible an argument to deny ourselves the use of it on the present occasion.

[2] It is certainly impossible for any nation to have stipulations of this kind and *extent* with two others at the same time. However, the language of the report is made more correct and conformable to the words of the French treaty.

Some positively *favorable stipulations* respecting our grain, flour, and fish, even in the European dominions of Spain, would be of great consequence, and would justify reciprocal advantages to some of her commodities (say wines and brandies).[1]

Will it not be necessary to add an instruction that the usual stipulation respecting the ratification of the treaty by the United States be varied, so as to be adapted to the participation of the Senate?[2]

Last page. The words "nor in *assenting* to their rights" have a pencil line drawn through them. 'T is certainly best to obliterate them.

The less commitment the better.[3]

HAMILTON TO WASHINGTON

(Cabinet Paper.)

TREASURY DEPARTMENT, November 19, 1792.

SIR:—I have carefully reflected on the application of Mr. Ternant for an additional supply of money for the use of the colony of St. Domingo, on account of the debt due to France, which I regard more and more as presenting a subject extremely delicate and embarrassing.

Two questions arise: first as to the ability of the United States to furnish the money, which is stated

[1] If the Secretary of the Treasury will be so good as to particularize the advantages to be asked and the equivalents to be offered, it will be proper to consider of them.

[2] It seems sufficient to stipulate that the treaty shall be ratified, without saying by what body or by what individuals it is to be. An instruction, however, is inserted to allow sixteen months for the exchange of ratifications.

[3] This has been decided before.

at about $326,000, in addition to the sum remaining of the $400,000, some time since promised; second as to the propriety of doing it on political considerations.

With regard to ability, I feel little doubt that it will be in the power of the Treasury to furnish the sum; yet circumstanced as we are, with the possibility of more extensive demands than at present exist for exigencies of a very serious nature, I think it would not be desirable to be bound by a positive stipulation for the entire amount. With regard to the propriety of the measure on political considerations, more serious difficulties occur.

The late suspension of the king, which is officially communicated, and the subsequent abolition of royalty by the convention, which the newspapers announce with every appearance of authenticity, essentially change, for the moment, the condition of France.

If a restoration of the king should take place, I am of opinion that no payment which might be made in the interval would be deemed regular or obligatory. The admission of it to our credit would consequently be considered as matter of discretion, according to the opinion entertained of its merit and utility. A payment to the newly constituted power, as a reimbursement, in course, or in any manner which would subject it to be used in support of the change, would doubtless be rejected.

An advance, however, to supply the urgent necessities of a part of the French Empire, struggling under the misfortune of an insurrection, of the nature of that which has for some time distressed

the colony of St. Domingo, and now exposed to the danger of total ruin by famine, is of a different complexion. Succors furnished in such a situation, under due limitations, would be so clearly an act of humanity and friendship, of such evident utility to the French Empire, that no future government could refuse to allow a credit for them without a disregard of moderation and equity. But the claim for such credit would not be of a nature to be regularly and of course valid; consequently would be liable to be disputed.

The condition in which the colony has lately placed itself, by espousing the last change which has been made in France, operates as a serious difficulty in the case, and may be made a ground of objection to any aid which may be given them.

There is even a question whether there be now any organ of the French nation which can regularly ask the succor, whether the commission to Mr. Ternant be not virtually superseded.

It is also an objection (in the view of regularity and validity) to the supply asked, that the decree of the National Assembly, on which it is founded, contemplated a negotiation between the executive power in France and our minister there. The channel has not been pursued, and no substitute has been provided. The business wants organization in every sense.

From these premises, I deduce that nothing can be done without risk to the United States; that, therefore, *as little as possible* ought to be done; that whatever may be done should be constantly restricted to the single idea *of preserving the colony*

from destruction by famine; that, in all communications on the subject, care should be taken to put it on this footing, and even to avoid the explicit recognition of any regular authority in any person.

Under these cautions and restrictions (but not otherwise), I beg leave to submit it as my opinion, that succors ought to be granted, notwithstanding the degree of risk which will attend it; that they should be effected by occasional advances, without previous stipulation, and with only a general assurance that the United States, disposed to contribute by friendly offices to the preservation of an important portion of the French Empire, and to that of French Algiers, from the calamity of famine, will endeavor, from time to time, as far as circumstances shall permit, to afford means of sustenance.

According to a statement of Mr. De la Forêt, the provisions desired to be shipped in the course of November would amount to $83,000, including the total supply of fish and oil. Towards this, he computes the application of $50,000 out of the remainder of the $400,000 heretofore promised, which would leave a deficiency of $33,800. This sum, or in round numbers $40,000, can be engaged to be furnished; and in December, if no future circumstances forbid, a further sum can be engaged to be supplied, payable at a future short period.

It will be proper, that the most precise measures should be taken to ascertain from time to time the investment of the moneys supplied, in purchasing and forwarding provisions from this country to the colony in question.

It has been heretofore understood that the balance of the sum some time since stipulated was to be furnished, which accordingly has been and is doing.

Engagements for supplies have been entered into upon the basis of that stipulation, and payments to as great if not a greater amount are becoming due, in which the citizens of the United States are materially interested.

The caution which is deemed necessary, has reference not only to the safety of the United States in a pecuniary aspect, but to the consideration of avoiding a dangerous commitment, which may ever prove a source of misunderstanding between this country and the future government of the French nation.

From all that is hitherto known, there is no ground to conclude that the governing power, by the last advices, will be of long duration.

WASHINGTON TO HAMILTON

(Cabinet Paper.)

PHILADELPHIA, April 18, 1793.

SIR:—The posture of affairs in Europe, particularly between France and Great Britain,[1] places the United States in a delicate situation, and requires much consideration as to the measures which it will be proper for them to observe in the war between those Powers. With a view to forming a general plan of conduct for the Executive, I have stated and

[1] News had arrived of the war between France and England, and also that the minister of the new French Republic was on his way to the United States.

inclosed sundry questions, to be considered preparatory to a meeting at my house to-morrow, where I shall expect to see you at nine o'clock, and to receive the result of your reflections thereon.

Question 1.—Shall a proclamation issue for the purpose of preventing interferences of the citizens of the United States in the war between France and Great Britain, etc.? Shall it contain a declaration of neutrality or not? What shall it contain?

Question 2.—Shall a minister from the republic of France be received?

Question 3.—If received, shall it be absolutely, or with qualifications; and if with qualifications, of what kind?

Question 4.—Are the United States obliged, by good faith, to consider the treaties heretofore made with France, as applying to the present situation of the parties? May they either renounce them, or hold them suspended till the government of France shall be *established?*

Question 5.—If they have the right, is it expedient to do either, and which?

Question 6.—If they have an option, would it be a breach of neutrality to consider the treaties still in operation?

Question 7.—If the treaties are to be considered as now in operation, is the guaranty in the treaty of alliance applicable to a defensive war only, or to war either offensive or defensive?

Question 8.—Does the war in which France is engaged appear to be offensive or defensive on her part, or of a mixed and equivocal character?

Question 9.—If of a mixed and equivocal character, does the guaranty, in any event, apply to such a war?

Question 10.—What is the effect of a guaranty, such as that to be found in the treaty of alliance between the United States and France?

Question 11.—Does any article in either of the treaties prevent ships of war, other than privateers, of the Powers opposed to France, from coming into the ports of the United States, to act as convoys to their own merchantmen? or does it lay other restraints upon them, more than would apply to the ships of war of France?

Question 12.—Should the future regent of France send a minister to the United States, ought he to be received?

Question 13.—Is it necessary or advisable to call together the two Houses of Congress, with a view to the present posture of European affairs? If it is, what should be the particular objects of such a call?

GEO. WASHINGTON.

CABINET OPINION

April 19, 1793.

At a meeting of the Heads of Departments, and the Attorney-General, at the President's, April 19, 1793, to consider the foregoing questions proposed by the President, it was determined by all, on the first question, that a proclamation shall issue, forbidding our citizens to take part in any hostilities on the seas, with or against any of the belligerent

Powers; and warning them against carrying to any such Powers, any of those articles deemed contraband, according to the modern usage of nations; and enjoining them from all acts and proceedings inconsistent with the duties of a friendly nation towards those at war.

On the second question, "Shall a minister from the republic of France be received?" it was unanimously agreed that he shall be received.

The remaining questions were postponed for further consideration.[1]

HAMILTON TO WASHINGTON [2]

(Cabinet Paper.)

April, 1793.

Question the Third proposed by the President of the United States.—"If a minister from the republic of France shall be received, shall it be absolutely, or with qualifications; and if with qualifications, of what kind?"

Answer

It is conceived to be advisable that the reception of the expected minister from the republic of France

[1] Five days later, in accordance with the views of his Cabinet, Washington issued his famous proclamation of neutrality, which marked out our foreign policy as one of absolute abstention from the affairs of Europe, a principle of which the Monroe doctrine was the necessary corollary.

[2] This important paper carries the principle of our neutrality a step further, and is most important. Hamilton wished to sever as quietly as possible all connection with France, so that we might be free from alliances of any sort which were liable to go beyond mere comity and commercial reciprocity. Hamilton's policy was entirely consistent with that of the proclamation.

should be qualified by a previous declaration, substantially to this effect: "That the Government of the United States, uniformly entertaining cordial wishes for the happiness of the French nation, and disposed to maintain an amicable communication and intercourse, uninterrupted by political vicissitudes, does not hesitate to receive him in the character which his credentials import; yet, considering the origin, course, and circumstances of the relations originally contracted between the two countries, and the existing position of the affairs of France, it is deemed advisable and proper, on the part of the United States, to reserve to future consideration and discussion the question—whether the operation of the treaties by which those relations were formed, ought not to be deemed temporarily and provisionally suspended; and under this impression, it is thought due to a spirit of candid and friendly procedure to apprise him beforehand of the intention to reserve that question, lest silence on the point should occasion misconstruction."

The grounds of this opinion are as follow:

The treaties between the United States and France were made with His Most Christian Majesty, his heirs and successors. The government of France which existed at the time those treaties were made, gave way, in the first instance, to a new constitution, formed by the representatives of the nation, and accepted by the king, which went into regular operation. Of a sudden a tumultuous rising took place. The king was seized, imprisoned, and declared to be suspended by the authority of the National As-

sembly, a body delegated to exercise the legislative functions of the already established government—in no shape authorized to divest any other of the constituted authorities of its legal capacities or powers. So far, then, what was done was a manifest assumption of power.

To justify it, it is alleged to have been necessary for the safety of the nation, to prevent the success of a counter-revolution meditated or patronized by the king.

On the other side, it is affirmed that the whole transaction was merely the execution of a plan which had been for some time projected, and had been gradually ripening, to bring about an abolition of the royalty and the establishment of a republican government.

No satisfactory proof is known to have been produced to fix upon the king the charges which have been brought against him.

On the other hand, declarations have escaped from characters who took a lead in the measure of suppressing the royalty, which seem to amount to a tacit acknowledgment that the events of the 10th of August were the result of a premeditated plan of the republican party to get rid of the monarchical power, rather than a necessary counteraction of mischievous designs on the part of the king.

Mr. De Malsherbes, one of the counsel of the king, makes this striking reflection on the point.

The events of the 10th of August were followed on the 2d and 3d of September with the massacre of a great number of persons in different parts of France,

including several distinguished individuals who were known to be attached either to the ancient government, or to the constitution which had succeeded to it.

The suspension of the king was accompanied by a call upon the primary assemblies to depute persons to represent them in a convention, in order to the taking of such measures as the exigency of the conjuncture might require.

Under circumstances not free from precipitation, violence, and awe, deputies to a national convention were chosen. They assembled on the 17th of September, 1792, at Paris, and on the very day of their meeting decreed the abolition of royalty.

They proceeded in the next place to organize a temporary provisional government, charged with managing the affairs of the nation till a constitution should be established.

As a circumstance that gives a complexion to the course of things, it is proper to mention that the Jacobin Club at Paris (a society which, with its branches in different parts of France, appears to have had a prevailing influence over the affairs of the country), previous to the meeting of the convention, entered into measures with the avowed object of *purging* the convention of those persons, favorers of royalty, who might have escaped the *attention* of the *primary assemblies*.

In the last place, the late king of France has been tried and condemned by the convention, and has suffered death.

Whether he has suffered justly or unjustly,

whether he has been a guilty tyrant or an unfortunate victim, is at least a problem. There certainly can be no hazard in affirming that no proof has yet come to light sufficient to establish a belief that the death of Louis is an act of national justice.

It appears to be regarded in a different light throughout Europe, and by a numerous and respectable part, if not by a majority, of the people of the United States.

Almost all Europe is or seems likely to be armed in opposition to the present rulers of France, with the declared or implied intention of restoring, if possible, the royalty in the successor of the deceased monarch.

The present war, then, turns essentially on the point—What shall be the future government of France? Shall the royal authority be restored in the person of the successor of Louis, or shall a republic be constituted in exclusion of it?

Thus stand the material facts which regard the origin of our connections with France, and the obligations or dispensations that now exist.

They have been stated, not with a view to indicate a definitive opinion concerning the propriety of the conduct of the present rulers of France, but to show that the course of the revolution there has been attended with circumstances, which militate against a full conviction of its having been brought to its present stage by such a *free*, *regular*, and *deliberate* act of the nation, and with such a spirit of justice and humanity, as ought to silence all scruples about the validity of what has been done, and the morality of aiding it, if consistent with policy.

This great and important question arises out of the facts which have been stated:

Are the United States bound, by the principles of the laws of nations, to consider the treaties heretofore made with France as in present force and operation between them and the actual governing powers of the French nation? or may they elect to consider their operation as suspended, reserving also a right to judge finally whether any such changes have happened in the political affairs of France as may justify a renunciation of those treaties?

It is believed that they have an option to consider the operation of those treaties as suspended, and will have eventually a right to renounce them, if such changes shall take place as can *bona fide* be pronounced to render a continuance of the connections which result from them disadvantageous or dangerous.

There are two general propositions which may be opposed to this opinion:—1st. That a nation has a right, in its own discretion, to change its form of government—to abolish one, and substitute another. 2d. That *real* treaties (of which description those in question are) bind the NATIONS whose governments contract, and continue in force notwithstanding any changes which happen in the forms of their government.

The truth of the first proposition ought to be admitted in its fullest latitude. But it will by no means follow, that, because a nation has a right to manage its own concerns as it thinks fit, and to make such changes in its political institutions as itself

judges best calculated to promote its interests, it has therefore a right to involve other nations, with whom it may have had connections, *absolutely* and *unconditionally*, in the consequences of the changes which it may think proper to make. This would be to give to a nation or society not only a power over its own happiness, but a power over the happiness of other nations or societies. It would be to extend the operation of the maxim much beyond the *reason* of it, which is simply, that every nation ought to have a right to provide for its own happiness.

If, then, a nation thinks fit to make changes in its government, which render treaties that before subsisted between it and another nation useless, or dangerous, or hurtful to that other nation, it is a plain dictate of reason, that the *latter* will have a right to renounce those treaties; because it also has a right to take care of its own happiness, and cannot be obliged to suffer this to be impaired by the means which its neighbor or ally may have adopted for its own advantage, contrary to the ancient state of things.

But it may be said, that an obligation to submit to the inconveniences that may ensue arises from the other maxim which has been stated—namely, that real treaties bind nations, notwithstanding the changes which happen in the forms of their governments.

All general rules are to be construed with certain reasonable limitations. That which has been just mentioned must be understood in this sense,—that changes in forms of government do not of course

abrogate *real* treaties; that they continue absolutely binding on the party which makes the change, and will bind the other party, unless, in due time and for just cause, he declares his election to renounce them; that in good faith he ought not to renounce them, unless the change which happened does really render them useless, or materially less advantageous, or more dangerous than before. But for good and sufficient cause he may renounce them.

Nothing can be more evident than that the existing forms of government of two nations may enter far into the motives of a real treaty. Two republics may contract an alliance, the principal inducement to which may be a similarity of constitutions, producing a common interest to defend their mutual rights and liberties. A change of the government of one of them into a monarchy or despotism may destroy the inducement and the main link of common interest. Two monarchies may form an alliance on a like principle, their common defence against a powerful neighboring republic. The change of the government of one of the allies may destroy the source of common sympathy and common interest, and render it prudent for the other ally to renounce the connection and seek to fortify itself in some other quarter.

Two nations may form an alliance because each has confidence in the energy and efficacy of the government of the other. A revolution may subject one of them to a different form of government—feeble, fluctuating, and turbulent, liable to provoke wars, and very little fitted to repel them. Even the

connections of a nation with other foreign powers may enter into the motives of an alliance with it. If a dissolution of ancient connections shall have been a consequence of a revolution of government, the external political relations of the parties may have become so varied as to occasion an incompatibility of the alliance with the Power which had changed its constitution with the other connections of its ally —connections perhaps essential to its welfare.

In such cases, reason, which is the touchstone of all similar maxims, would dictate that the party whose government had remained stationary would have a right, under a *bona-fide* conviction that the change in the situation of the other party would render a future connection detrimental or dangerous, to declare the connection dissolved.

Contracts between nations as between individuals must lose their force where the considerations fail.

A treaty pernicious to the state is of itself void, where no change in the situation of either of the parties takes place. By a much stronger reason it must become *voidable* at the option of the other party, when the voluntary act of one of the allies has made so material a change in the condition of things as is always implied in a radical revolution of government.

Moreover, the maxim in question must, I presume, be understood with this further limitation—that the revolution be *consummated*—that the new government be *established*, and recognized among nations—that there be an *undisputed* organ of the national will to obtain the performance of the stipulations made with the former government.

It is not natural to presume that an ally is obliged to throw his weight into either scale, where the war involves the very point—what shall be the government of the country; and that, too, against the very party with whom the formal obligations of the alliance have been contracted.

It is more natural to conclude, that in such a case the ally ought either to aid the party with whom the contract was immediately made, or to consider the operation of the alliance as suspended. The latter is undoubtedly his duty, rather than the former, where the nation appears to have pronounced the change.

A doctrine contrary to that here supported may involve an opposition of moral duties, and dilemmas of a very singular and embarrassing kind.

A nation may owe its existence or preservation entirely, or in a great degree, to the voluntary succors which it derived from a monarch of a country—the then lawful organ of the national will, the director of its sword and its purse, the dispenser of its aid and its favors. In consideration of the good offices promised or afforded by him, an alliance may have been formed between the monarch, his heirs and successors, and the country indebted to him for those good offices—stipulating future co-operation and mutual aid. This monarch, without any particular crime on his part, may be afterwards deposed and expelled by his nation, or by a triumphant faction, which may, perhaps, momentarily direct the nation's voice. He may find in the assistance of neighboring powers friendly to his cause the means of endeavoring to reinstate himself.

In the midst of his efforts to accomplish this purpose, the ruling powers of the nation over which he had reigned call upon the country which had been saved by his friendship and patronage, to perform the stipulations expressed in the alliance made with him, and embark in a war against their friend and benefactor—on the suggestion, that the treaty being a *real* one, the actual rulers of the nation have a right to claim the benefit of it.

If there be no option in such case, would there not be a most perplexing conflict of opposite obligations? —of the faith supposed to be plighted by the treaty, and of justice and gratitude toward a man from whom essential benefits had been received, and who could oppose the formal and express terms of the contract to an abstract theoretic proposition? Would genuine honor, would true morality permit the taking a hostile part against the friend and benefactor, being at the same time the original party to the contract?

Suppose the call of the actual rulers to be complied with, and the war to have been entered into by the ally. Suppose the expelled monarch to have re-entered his former dominions, and to have been joined by one half of his former subjects—how would the obligation then stand? He will now have added to the title of being the formal party to the contract, that of being the actual possessor of one half the country and of the wishes of one half the nation.

Is it supposable that in such a case the obligations of the alliance can continue in favor of those by whom he had been expelled? or would they then revert

again to the monarch? or would they fluctuate with the alternations of good and ill fortune attending the one or the other party? Can a principle which would involve such a dilemma be true? Is it not evident that there must be an option to consider the operation of the alliance as suspended during the contest concerning the government—that, on the one hand, there may not be a necessity of taking part with the expelled monarch against the apparent will of the nation, or, on the other, a necessity of joining the ruling powers of the moment against the immediate party with whom the contract was made, and from whom the consideration may have flowed?

If the opinions of writers be consulted, they will, as far as they go, confirm the sense of the maxim which is here contended for.

Grotius, while he asserts the general principle of the obligation of real treaties upon nations, notwithstanding the changes in their governments, admits the qualification which has been insisted upon, and expressly excepts the case where it appears that the motive to the treaty was "peculiar to the form of government, *as* when free states enter into an alliance for the defence of their liberties."—Book II., Chap. XVI., § 16, No. 1.

And *Vatel*, who is the most systematic of the writers on the laws of nations, lays down the qualification in the greatest latitude. To give a correct idea of his meaning, it will be of use to transcribe the entire section. It is found in Book II., Ch. XII., § 197.

"What is the obligation of a *real alliance*, when the king, who is the ally, is driven from the throne?

"The same question," says he (to wit, that stated above), "presents itself in *real* alliances made, and in general in all alliances made with the state, and not in particular with a king for the defence of his person. An ally ought doubtless to be defended against every invasion, against every foreign violence, and even against his rebellious subjects; in the same manner, a republic ought to be defended against the enterprises of one who attempts to destroy the public liberty. But it ought to be remembered that an ally of the state or the nation is not its judge. If the nation has deposed its king in form—if the people of a republic have driven out their magistrates and set themselves at liberty, or acknowledged the authority of a usurper, either expressly or tacitly, to oppose these domestic regulations by disputing their justice or validity would be to interfere with the government of a nation, and do it an injury. *The ally remains the ally of the state*, notwithstanding the change which has happened in it. However, when this change renders the alliance *useless*, *dangerous*, or *disagreeable*, it may renounce it; for it may say, upon a good foundation, that it would not have entered into an alliance with that nation had it been under the present form of government."

It is not perceived that there is any ambiguity of expression, or any other circumstance, to throw the least obscurity upon the sense of the author. The precise question he raises is: What is the obligation of a *real* alliance, when the king, who is the ally, is driven from the throne? He concludes, after several intermediate observations, that the ally *remains*

the ally of the State, notwithstanding the change which has happened. Nevertheless, says he, when the change renders the alliance *useless*, *dangerous*, or *disagreeable*, it may be renounced.

It is observable, that the question made by writers always is, whether, in a real alliance, when the king who is the ally is deposed, the ally of the deposed king is bound to succor and support him. And though it is decided by the better opinions, as well as by the reason of the thing, that there is not an obligation to support him against the will of the nation, when his dethronement is to be ascribed to that source, yet there is never a single suggestion, on the other hand, of the ally of such dethroned king being obliged to assist his nation against him. The most that appears to be admitted in favor of the decision of the nation is, that there is no support due to the dethroned prince.

Puffendorf puts this matter upon very proper grounds. Referring to the opinion of Grotius, who with too much latitude lays it down, "that a league made with a king is valid, though that king or his successors be expelled the kingdom *by his subjects*, for though he has lost his possession, the right to the crown still remains in him," he makes the following observation: "To me, so much in this case seems to be certain, that if the terms of the league *expressly mention* and *intend* the defence of the prince's *person* and *family*, he ought to be assisted in the recovery of his kingdom. But if the league was formed for *public good* only, 't is a disputable point whether the exiled prince can demand assistance in virtue of his

league. *For the aids mentioned are presumed to have been promised against foreign enemies, without view of this particular case.* Not but that still such a league leaves *liberty* to assist a *lawful prince* against a *usurper.*"

The presumption here stated is a natural and proper one, and in its reason applies to both sides—to the exiled prince who should demand succors against his nation, and to the nation who, having dethroned its prince, should demand succor to support the act of dethronement and establish the revolution. The ally in such case is not bound to come in aid of either party, but may consider the operation of the alliance as suspended till the competition about the government is decided.

What a difference is there between asserting it to be a *disputable* point, whether the ally of a dethroned prince, in the case of a real treaty, is not bound to assist him against the nation, and maintaining that the ally is bound at all events to assist the nation against him! For this is the consequence of asserting that such a treaty *ipso facto* attaches itself to the body of the nation, even in the course of a pending revolution, and without option either to suspend or renounce.

If the practice of nations be consulted, neither will that be found to confirm the proposition, that the obligation of real treaties extends unconditionally to the *actual governors* of nations, whatever changes take place. In the books which treat on the subject, numerous examples of the contrary are quoted. The most prevailing practice has been to assist the

ancient sovereign. In the very instance to which this discussion relates, this is the course which a great part of Europe directly or indirectly pursues.

It may be argued by way of objection to what has been said, that admitting the general principle of a right for sufficient cause to renounce, yet still, as the change in the present case is from a monarchy to a *republic*, and no sufficient excuse hitherto exists for a renunciation, the possibility of its arising hereafter in the progress of events, does not appear a valid reason for resorting to the principle in question. To this the answer is, that no government has yet been instituted in France in lieu of that which has been pulled down; that the existing political powers are, by the French themselves, denominated provisional, and are to give way to a constitution to be established.

It is therefore impossible to foresee what the future government of France will be; and in this state of uncertainty, the right to *renounce* resolves itself into, of course, a right to *suspend.* The one is a consequence of the other; applicable to the *undetermined* state of things. If there be a right to renounce when the change of government proves to be of a nature to render an alliance useless or injurious, there must be a right, amidst a pending revolution, to wait to see what change will take place.

Should it be said that the treaty is binding now, no objectionable change having yet taken place, but may be renounced hereafter, if any such change shall take place:

The answer is, that it is not possible to pronounce

at present what is the *quality* of the change. Every thing is *in transitu*. This state of suspense, as to the object of option, naturally suspends the option itself. The business may, in its progress, assume a variety of forms. If the issue may not be waited for, the obligations of the country may fluctuate indefinitely—be one thing to-day, another to-morrow; a consequence which is inadmissible.

Besides, the true reasoning would seem to be that to admit the operation of the treaties, while the event is pending, would be to take the chance of what that event shall be, and would preclude a future renunciation.

Moreover, the right to consider the operation of the treaties as suspended, results from this further consideration, that during a *pending revolution*, an ally in a real treaty is not bound to pronounce between the competitors.

The conclusion from the whole is, that there is an option in the United States to hold the operation of the treaties suspended; and that in the event, if the form of government established in France shall be such as to render a continuance of the treaties contrary to the interests of the United States, they may be renounced.

If there be such an option, there are strong reasons to show that the character and interests of the United States require, that they should pursue the course of holding the operation of the treaties suspended.

Their character:

Because it was from Louis XVI., the then sovereign of the country, that they received those succors

which were so important in the establishment of their independence and liberty. It was with him, his heirs, and successors, that they contracted their engagements—by which they obtained those precious succors.

It is enough, on their part, to respect the right of the nation to change its government, so far as not to side with the successors of the dethroned prince; as to receive their ambassador, and keep up an amicable intercourse; as to be willing to render every good office, not contrary to the duties of a real neutrality.

To throw their weight into the scale of the new government would, it is to be feared, be considered by mankind as not consistent with a decent regard to the relations which subsisted between them and Louis XVI.; as not consistent with a due sense of the services they received from that unfortunate prince; as not consistent with national delicacy and decorum.

The character of the United States may also be concerned in keeping clear of any connection with the present government of France in other views.

A struggle for liberty is in itself respectable and glorious; when conducted with magnanimity, justice, and humanity, it ought to command the admiration of every friend to human nature; but if sullied by crimes and extravagances, it loses its respectability. Though success may rescue it from infamy, it cannot, in the opinion of the sober part of mankind, attach to it much positive merit or praise. But in the event of a want of success, a general execration must attend it.

It appears, thus far, but too probable, that the pending revolution of France has sustained some serious blemishes. There is too much ground to anticipate that a sentence uncommonly severe will be passed upon it if it fails.

Will it be well for the United States to expose their reputation to the *issue*, by implicating themselves as associates? Will their reputation be promoted by a successful issue? What will it suffer by the reverse?

These questions suggest very serious considerations to a mind anxious for the reputation of the country—anxious that it may emulate a character of sobriety, moderation, justice, and love of order.

The *interest* of the United States seems to dictate the course recommended, in many ways:

I. In reference to their character, from the considerations already stated.

II. In reference to their peace.

As the present treaties contain stipulations of military succors and military aids, in certain cases which are likely to occur, there can be no doubt, that if there be an option to consider them as not binding, as not in operation, the considering them as binding, as in operation, would be equivalent to making new treaties of similar import; and it is a well-settled point, that such stipulations entered into, pending a war, or with a view to a war, is a departure from neutrality.

How far the parties opposed to France may think fit to treat us as enemies, in consequence of this, is a problem which experience only can solve; the

solution of which will probably be regulated by their views of their own interest—by the circumstances which may occur; and it is far from impossible that these will restrain them, so long as we, in fact, take no active part in favor of France.

But if there be an option to avoid it, it can hardly be wise to incur so great an additional risk and embarrassment, to implicate ourselves in the perplexities which may follow.

With regard to the good effect of the conduct which is advocated upon the Powers at war with France, nothing need be said.

Even considering our interest with reference to France herself, some reasons may be urged in favor of considering the treaties as suspended.

It seems to be the general if not the universal sentiment, that we ought not to embark in the war.

Suppose the French islands attacked, and we called upon to perform the guaranty. To avoid complying with it, we must either say: That the war being *offensive* on the part of France, the *casus fœderis* does not exist; or, that as our co-operation would be *useless* to the object of the guaranty, and attended with more than ordinary danger to ourselves, we cannot afford it.

Would the one or the other be satisfactory to France?

The first would probably *displease*—the last would *not please*. It is, moreover, the most questionable and the least reputable of all the objections which a nation is allowed to oppose to the performance of its engagements. We should not, therefore, be much

more certain of avoiding the displeasure of the present ruling powers of France, by considering the treaties as in operation, than by considering their operation as suspended; taking it for granted that we are in either case to observe a neutral conduct *in fact.*

But suppose the contest unsuccessful on the part of the present governing powers of France, what would then *be our situation* with the future government of that country?

Should we not be branded and detested by it as the worst of ingrates?

When it is added, that the restoration of the monarchy would be very naturally attributed to the interposition of Great Britain, the reflection just suggested acquires peculiar weight and importance.

But against this may be placed the consideration, that in the event of the success of the present governing powers, we should stand on much worse ground, by having considered the operation of the treaties as suspended, than by having pursued a contrary conduct.

This is not clear, for the reasons just given; unless we are also willing, if called upon, to become parties in the war. But admitting that the *course* of considering the treaties as in present operation would give us a claim of merit with France, in the event of the establishment of the republic, our affairs with that country would not stand *so much the better* on this account, as they would *stand worse* for giving operation to the treaties, should the monarchy be restored.

We should still have to offer a better claim to the friendship of France than any other Power—the not taking side with her enemies, the early acknowledgment of the republic by the reception of its minister, and such good offices as have been and may be rendered, consistently with a sincere neutrality.

The reasons, too, which induced us not to go further, will have their due weight in times that shall restore tranquillity and moderation and sober reflection! They will justify us even to France herself.

Is there not, however, danger that a refusal to admit the operation of the treaties might occasion an immediate rupture with France?

A danger of this sort cannot be supposed, without supposing such a degree of intemperance on the part of France as will finally force us to *quarrel* with her or to *embark* with her. And if such be her temper, a fair calculation of hazards will lead us to risk her displeasure in the first instance. An inquiry naturally arises of this kind: Whether from the nature of the treaties they have any such intrinsic value as to render it inexpedient to put them in jeopardy by raising a question about their operation or validity?

Here, it may freely be pronounced, there is no difficulty. The military stipulations they contain are contrary to that neutrality in the quarrels of Europe, which it is our true policy to cultivate and maintain. And the commercial stipulations to be found in them present no peculiar advantages.

They seem to us nothing or scarcely any thing which an inevitable course of circumstances would not produce. It would be our interest, in the ab-

stract, to be disengaged from them, and take the chance of future negotiation, for a better treaty of commerce.

It might be observed, by way of objection to what has been said, that an *admission* of the *operation* of the treaties has been considered as equivalent to taking part with France.

It is true that the two things have been considered as *equivalent* to each other, and in strict reasoning this ought to be the case.—Because,

1. If there be an option, the effect of not using it would be to pass from a *state of neutrality* to that of *being an ally*—thereby *authorizing* the Powers at war with France to treat us as an enemy.

2. If under the operation of the treaties we are not bound to embark in the war, it must be owing either to *casualty* or *inability*.

If the war is not *offensive* on the part of France, an attack on the West India Islands would leave us no escape but in the plea of inability.

The putting ourselves in a situation, in which it might so happen that we could preserve our neutrality under no other plea than that of *inability*, is, in all the politico-legal relations of the subject, to make ourselves a party. In other words, the placing ourselves in a position in which it would depend on casualty whether it would not become our duty to engage in the war, ought, in a general question of establishing or recognizing a political relation with a foreign Power embarked in war, to be regarded in the same light as the taking part with that Power in the war.

To do a thing, or to contract or incur an obligation of doing it, are not in such a question materially different.

There remain some miscellaneous views of the subject, which will serve to fortify the general reasoning

I. The conduct of the present government of France gives a sanction to other nations to use some latitude of discretion in respect to their treaties with the former government. That government, it is understood, has formally declared null various stipulations of the ancient government with foreign Powers, on the principle of their inapplicability to the new order of things. Were it to be urged, that an erroneous conduct on the part of France will not justify a like conduct on our part, it might be solidly replied, that a rule of practice formally adopted by any nation for regulating its political obligations towards other nations, may justly be appealed to as a standard for regulating the obligations of those nations toward her. Suppose this general ground to have been explicitly taken by France, that all treaties made by the old government became void by the Revolution, unless recognized by the existing authority, can it be doubted that every other nation would have had a right to adopt the same principle of conduct towards France? It cannot. By parity of reasoning, as far as France may in practice have pursued that principle, other nations may justifiably plead the example.

II. In addition to the embarrassments heretofore suggested as incident to the admission of the present operation of the treaties, this very particular one

may attend our case. An *island* may be taken by Great Britain, or Holland, with the avowed intention of holding it for the future king of France, the successor of Louis XVI. Can it be possible that a treaty made with Louis XVI. should oblige us to embark in the war to rescue a part of his dominions from his immediate successor? Under all the circumstances of the case, would the national integrity of delicacy permit it? Was it clear that Louis merited his death as a perfidious tyrant, the last question might receive a different answer from what can now be given to it!

Ought the United States to involve themselves in a dilemma of this kind?

III. In national questions, the general conduct of nations has great weight. When all Europe is, or is likely to be, armed in opposition to the authority of the present government of France, would it not be to carry theory to an extreme, to pronounce that the United States are *under* an *absolute*, indispensable obligation, not only to acknowledge respectfully the authority of that government, but to admit the immediate operation of treaties, which would constitute them at once its ally?

IV. Prudence, at least, seems to dictate the course of *reserving* the question in order that further reflection and a more complete development of circumstances shall enable us to make a decision both *right* and *safe*. It does not appear necessary to precipitate the fixing of our relations to France beyond the possibility of retraction. It is putting too suddenly too much to hazard.

It may be asked—Does not an unqualified reception of the minister determine the point?

Perhaps it does not; yet there is no satisfactory guide by which to decide the precise import and extent of such a reception by which to pronounce that it would not *conclude* us as to the treaties. There is great room to consider the epoch of receiving a minister from the republic as that *when* we ought to explain ourselves on the point in question—and silence at that time as a waiver of our option.

It is probable that on the part of France it will be urged to have this effect; and if it should be truly so considered by her, to raise the question afterwards would lead to complaint, accusation, ill humor.

It seems most candid and most safe to anticipate —not to risk the imputation of inconsistency. It seems advisable to be able to say to foreign Powers, if questioned: "In receiving the minister of France, we have not acknowledged ourself its ally. We have reserved the point for future consideration."

It may be asked, whether the reception, at any rate, is not inconsistent with the reservation recommended.

It does not appear to be so. The acknowledgment of a government by the reception of its ambassador, and the acknowledgment of it *as an ally*, are things different and *separable* from each other. However, the first, where a connection before existed between the two nations, may imply the last, if nothing is said; this implication may clearly be repelled, by a declaration that it is not the intention of the party. Such a declaration would be in the

nature of a protest against the implication; and the declared intent would govern. It is a rule that "*expressum facit cessare tacitum.*"

It may likewise be asked whether we are not too late for the ground proposed to be taken—whether the payment on account of the debt to France, subsequent to the last change, be not an acknowledgment that all engagements to the former government are to be fulfilled to the present.

The two objects of a debt in money, and a treaty of alliance, have no necessary connection. They are governed by considerations altogether different and irrelative.

The payment of a debt is a matter of perfect and strict obligation. It must be done at all events. It is to be regulated by circumstances of time and place, and ought to be done with precise punctuality.

In the case of a nation, whoever acquires *possession* of its political power, whoever becomes master of its *goods*, of the national property, must pay all the debts which the government of the nation has contracted.

In like manner, on the principle of reciprocity, the sovereign in possession is to receive the debts due to the government of the nation. These debts are at all events to be paid; and *possession* alone can guide as to the party to whom they are to be paid.

Questions of property are very different from those of *political connection.*

Nobody can doubt that the debt due to France is at all events to be paid, whatever *form* of government may take place in that country.

As little is it to be doubted, that it is possible for

a form of government to take place in France, justifying the dissolution of a political connection which before subsisted with that country.

Treaties between nations are capable of being affected by a great variety of considerations, casualities, and contingencies. Forms of government, it is evident, may be the considerations of them. Revolutions of government, by changing those forms, may consequently vary the obligations of parties.

Hence the payment of a debt to the sovereign in possession does not imply an admission of the present operation of political treaties. It may so happen, that there is a strict obligation to pay the debt, and a perfect right to withdraw from the treaties.

And while we are not bound to expose ourselves to the resentment of the *governing power* of France, by refusing to pay a debt at the time and place stipulated; so neither are we bound, pending a contested revolution of government, to expose ourselves to the resentment of other nations, by declaring ourselves the ally of that power, in virtue of treaties contracted with a former sovereign, who still pursues his claim to govern, supported by the general sense and arm of Europe.

ALEXANDER HAMILTON.

HAMILTON TO WASHINGTON

May 2, 1793.

Answers to remaining questions proposed by the President of the United States on the 18th of April last

QUESTION 4.—Are the United States obliged by good faith to consider the treaties heretofore made

with France as applying to the present situation of the parties? May they either renounce them or hold them suspended till the government of France shall be established?

ANSWER.—The war is plainly an offensive war on the part of France. *Burlemaqui*, an approved writer, Vol. II., Part IV., Chapter III., sec. 4 and 5, thus defines the different species of war: "Neither are we to believe (says he) that he who *first injures another* begins by that an offensive war, and that the other, *who demands satisfaction for the injury* received, is always upon the *defensive*. *There are a great many unjust acts which may kindle a war, and which, however, are not the war, as the ill treatment of a prince's ambassador, the plundering of his subjects, etc.*

"If, therefore, we take up arms to revenge such an unjust act, we commence an offensive but a just war; and the prince who has done the injury, and will not give satisfaction, makes a defensive but an unjust war. An offensive war is, therefore, unjust only when it is undertaken without a lawful cause; and then the defensive war, which on other occasions might be unjust, becomes just.

"*We must, therefore, affirm in general, that the first who takes up arms, whether justly or unjustly, commences an offensive war; and he who opposes him, whether with or without reason, begins a defensive war.*"

This definition of *offensive* and *defensive* war is conformable to the ideas of writers on the laws of nations in general, and is adopted almost verbatim by Barbeyrac, in his notes on III. and IV. of Book

VII., Chap. VI., Puffendorf's *Law of Nature and Nations.*

France, it is certain, was the first to declare war against every one of the Powers with which she is at war. Whether she had good cause or not, therefore, in each instance, the war is completely *offensive* on her part.

The forms which she has employed in some of her declarations (when, after reciting the aggressions she alleges to have been committed against her by a particular Power, she proceeds to pronounce that war exists between her and such Power) cannot alter the substance of the thing. The aggressions complained of, if ever so well founded, and however they may have been of a nature *to kindle the war, were not the war itself.* The war began, in each case, by the declaration and by the commencement of hostilities on the part of France. It was, therefore, clearly offensive on her part.

With regard to the causes that led to the war in each case, it requires more exact information than I have to pronounce upon them with confidence. As regards Austria and Prussia, the suggestion on one hand is, that a combination was formed to overthrow the new constitution of France, and that the declaration on the part of the latter country was only an anticipation of what would soon have proceeded from the confederated Powers. On the other hand, it is affirmed that the preparations and arrangements on their part were merely provisional and eventual, and that the republican party in France precipitated a war under the idea that it would fur-

nish opportunities for accusing and criminating the king's administration, and finally overthrow the royalty. Waiving all definitive opinion on this point, better guides will enable us to pronounce with more certainty in the other cases.

In respect to Holland, there seems to be no doubt that the aggression began with France.

France, in different treaties, had recognized a right in the Dutch to the exclusive navigation of the river Scheldt.

It appears that she had a leading agency in adjusting a controversy on this point, between the late Emperor Joseph and the Netherlands.

The 28th article of a treaty between those parties, concluded at Fontainebleau the 8th of November, 1785, is in these words:

"His most Christian Majesty contributed to the completion of the arrangement made between the high contracting parties (namely, the Emperor and the States General), *by his friendly intervention and his effectual and just mediation.* His said Majesty is requested by the high contracting parties to charge himself likewise with being the guaranty of the present treaty."

Nevertheless, the provisionary Executive Council, by a decree of the 16th of November, 1792, break through all these formal and express engagements, on the pretext of their being contrary to natural right, and declare the navigation of the Scheldt and Meuse *free.*

Such an infraction of treaties, on such a ground, cannot be justified without subverting all the foundations of positive and pactitious right among nations.

It is equally agreeable to the doctrine of theorists, and to the practice of nations, that rights to the common use of waters of the description in question, may be relinquished and qualified by treaty. To resume them, therefore, on the ground of the *imprescriptibility*, as it is called, of natural rights, is to set up a new rule of conduct, contrary to the common sense and common practice of mankind, amounting, in the party which attempts the resumption, to an unequivocal injury to the party against which it is attempted.

In respect to Great Britain the case is not equally clear; but there is sufficient ground to pronounce, that she had cause of complaint, prior to any given on her part.

It is known that in the early periods of the French Revolution she adopted the ground of neutrality, and nothing is alleged against her till after the 10th of August.

That event led her to withdraw her minister from the court of France; but before his departure, he left a note declarative of the intention of Great Britain to pursue still a pacific course, accompanied, indeed, with a cautious intimation that personal violence to the king would excite the general indignation of Europe.

But it will hardly be affirmed that this procedure amounted to an aggression. To recall a minister from, or not to keep one at, any court, is of itself an act of indifference. To recall, under such circumstances as took place on the 10th of August, was not an extraordinary step. Every government had a

right to deliberate, and was bound for its own safety to consider well, when it would recognize a new order of things. The keeping of a minister at France, after the deposition of the king, might be deemed a sanction of the change, and, indeed, was useless, until it was intended to give that sanction.

It was not therefore incumbent upon any Power to pursue this course, especially one which was not in the condition of an ally.

The intimation with regard to the king, to characterize it in the most exceptionable light, was at most an act of officiousness. Relating to a thing not at the time in agitation, it could only be considered as a caution to avoid a measure which might beget misunderstanding.

The conduct of France shows that she did not at the time consider this step as an injury, for she continued a minister at the court of London, and continued to negotiate.

The next step of Great Britain in order of time, which is complained of by France, and the first of a really hostile complexion, is the restriction on the exportation of corn to France, by way of exception to a general permission to export that article.

This was an unfriendly measure. It happened, as far as I am able to trace it, in the latter part of December, 1792.

But prior to these causes of dissatisfaction, an alarm had been given by France to Great Britain

The Convention, on the 19th of November, passed a decree in these words:

"The National Convention declare, in the name of

the French nation, that they will grant FRATERNITY and ASSISTANCE TO EVERY PEOPLE who wish to recover their liberty; and they charge the executive power to send the necessary orders to the generals to give assistance to such people, and to *defend* those citizens *who may have been or who may be vexed for the cause of liberty.*" Which decree was ordered to be printed IN ALL LANGUAGES.

This decree ought justly to be regarded in an exceptionable light by the government of every country. For though it be lawful and meritorious to assist a people in a virtuous and rational struggle for liberty, *when the particular case happens*, yet it is not justifiable in any government or nation to hold out to the world a *general invitation* and *encouragement* to *revolution* and insurrection, under a promise of *fraternity* and *assistance.*

Such a step is of a nature to disturb the repose of mankind, to excite fermentation in every country, to endanger government everywhere. Nor can there be a doubt that wheresoever a spirit of this kind appears, it is lawful to repress and repel it.

But this generally exceptionable proceeding might be looked upon by Great Britain as having a more particular reference to her, from some collateral circumstances.

It is known that various societies were instituted in Great Britain with the avowed object of reforms in the government. These societies presented addresses to the Convention of France, and received answers, containing an interchange of sentiments justly alarming to the British Government.

It will suffice, by way of illustration, to cite passages from two of these answers, each given by the President of the Convention, at a sitting on the 28th of November: one, to a deputation from the Society for Constitutional Information in London; the other, to a deputation of English and Irish citizens at Paris.

"The shades of PENN, of HAMPDEN, and of SYDNEY hover over your heads, and *the moment without doubt approaches* in which the French will bring congratulations to the NATIONAL CONVENTION OF GREAT BRITAIN.

"Nature and *principles* draw towards us England, Scotland, and Ireland. Let the cries of friendship resound through the two *republics*. Again principles are waging war against tyranny, which will fall under the blows of philosophy. Royalty in Europe is either destroyed or on the point of perishing on the ruins of feodalty; and the declaration of rights placed by the side of *thrones is a devouring fire which will consume them*. WORTHY REPUBLICANS," etc.

Such declarations to such societies are a comment upon the decree, are in every sense inconsistent with what was due to a just respect for a neutral nation, and amounted to so direct a patronage of a revolution, in the essential principles of its government, as authorized even a declaration of war.

It is true that Mr. Chauvelin, in a note to Lord Grenville, of the 27th of December, 1792, declares that the "National Convention never meant that the French Republic should *favor insurrections*, should espouse the quarrels of a few *seditious persons*, or

should endeavor to excite disturbances in any neutral or friendly country; the decree being only applicable to a people who, after having *acquired* their liberty, should call for the *fraternity, the assistance of the Republic*, by the *solemn and unequivocal expression of the general will.*"

But this explanation could not change the real nature and tendency of the decree, which, holding out a general promise of fraternity and *assistance* to every people who *wished to recover* their liberty, did favor insurrections, and was calculated to excite disturbances in neutral and friendly countries.

Still less could it efface the exceptionable and offensive nature of the reception which was given, and the declarations which were made, to the revolutionary or reforming societies of Great Britain.

The answer of Lord Grenville very justly observes, that "Neither satisfaction nor security is found in the terms of an explanation which still declares to the promoters of sedition in every country, what are the cases in which they may count beforehand on the support and succor of France, and which reserves to that country the right of mixing herself in the internal affairs of another, whenever she shall judge it proper, and on principles incompatible with the political institutions of all the countries of Europe."

Besides the declarations which have been mentioned to the different English societies, and which apply particularly to Great Britain, there are other acts of France which were just causes of umbrage and alarm to all the governments of Europe.

Her decree of the 15th of December is one of them. This decree, extraordinary in every respect, which contemplates the total subversion of all the ancient establishments of every country into which the arms of France should be carried, has the following article:

"The French nation declare—That it *will treat as enemies the people who, refusing or renouncing liberty and equality, are desirous of preserving their prince and privileged casts, or of entering into an accommodation with them.* The nation promises and engages not to lay down its arms until the sovereignty and liberty of the people, on whose territories the French armies *shall have entered*, shall be established, and not to consent to any *arrangement* or *treaty with the prince* and *privileged persons* so dispossessed, with whom the republic is at war."

This decree cannot but be regarded as an outrage little short of a declaration of war against every government of Europe, and as a violent attack upon the *freedom of opinion of all mankind.*

The *incorporation* of the territories conquered by the arms of France with France herself, is another of the acts alluded to, as giving just cause of umbrage and alarm to neutral nations in general. It is a principle well established by the laws of nations, that the property and dominion of conquered places do not become *absolute* in the conquerors, until they have been ceded or relinquished by a treaty of peace or some equivalent termination of the war.

Till then it is understood to be in a state of suspense (the conqueror having only a possessory and qualified title), liable to such a disposition as may

be made by the compact which terminates the war. Hence the citizen of the neutral nation can acquire no final or irrevocable title to land by purchase of the conqueror during the continuance of the war. This principle, it is evident, is of the greatest importance to the peace and security of nations—greatly facilitating an adjustment of the quarrels in which they happen at any time to be involved.

But the *incorporation* which has been mentioned, and which actually took place with respect to the territories of different Powers, Savoy, Antwerp, etc., was a direct violation of that very important and fundamental principle; and of those rights which the laws of war reserve to every Power at war; a violation tending to throw insuperable difficulties in the way of peace. After once having adopted those territories *as part of herself*, she became bound to maintain them to the last extremity by all those peremptory rules which forbid a nation to consent to its own dismemberment.

That *incorporation*, therefore, changed entirely the principle of the war on the part of France. It ceased to be a war for the defence of her rights, for the preservation of her liberty. It became a war of acquisition, of extension of territory and dominion, and in a manner altogether subversive of the laws and usages of nations, and tending to the aggrandizement of France, to a degree dangerous to the independence and safety of every country in the world.

There is no principle better supported by the doctrines of writers, the practice of nations, and the dictates of right reason, than this—that whenever a

nation adopts maxims of conduct tending to the disturbance of the tranquillity and established order of its neighbors, or manifesting a spirit of self-aggrandizement, it is lawful for other nations to combine against it, and by force to control the effects of those maxims and that spirit. The conduct of France in the instances which have been stated, calmly and impartially viewed, was an *offence* against *nations*, which naturally made it a common cause among them to check her career.

The pretext of propagating liberty can make no difference. Every nation has a right to carve out its own happiness in its own way, and it is the height of presumption in another to attempt to fashion its political creed.

These acts and proceedings are all prior in time to the last aggressive step of Great Britain, the ordering out of the kingdom the person who was charged with a diplomatic mission to that court from the government of France.

The style and manner of that proceeding rendered it undoubtedly an insult, and if the conduct of France before that time had been unexceptionable, the war declared by France, though *offensive* in its nature, would have been justifiable in its motive.

With regard to Spain, the war was likewise declared by France, and is consequently *offensive* on her part. The conduct of the former towards the latter, previous to this event, appears not only to have been moderate, but even timid.

The war on the part of Portugal appears to have been *offensive*.

The result from what has been said is, that the war in which France is engaged is in *fact* an offensive war on her part against all the Powers with which she is engaged, except one; and in *principle*, to speak in the most favorable terms for her, is *at least* a mixed case—a case of mutual aggression.

The inference from this state of things is as plain as it is important. The *casus fœderis* of the guaranty in the treaty of alliance between the United States and France cannot take place, though her West India Islands should be attacked.

The express denomination of this treaty is "Traité d' Alliance *eventuelle* et *defensive*"—Treaty of Alliance *eventual* and *defensive*.

The second article of the treaty also calls it a "*defensive* alliance." This, then, constitutes the leading feature, the characteristic *quality* of the treaty. By this principle every stipulation in it is to be judged.

HAMILTON TO WASHINGTON [1]

(Cabinet Paper.)

May 15, 1793.

State of facts as supposed

Mr. Genet, Minister Plenipotentiary from the Republic of France, arrives in Charleston. There he causes two privateers to be fitted out, to which he

[1] This letter marks the beginning of the troubles with Genet. That zealous and annoying individual, as soon as he had landed, commissioned privateers which at once began to prey on British commerce, seizing one vessel within the capes of the Delaware. In general he made the United States a base of operations against England, and undertook to drag us into war as the ally of France. This letter and those which follow are almost entirely self-explanatory.

issues commissions to cruise against the enemies of France. There also the privateers are manned, and partly with citizens of the United States, who are enlisted or engaged for the purpose without the privity or permission of the government of this country, before even Mr. Genet has delivered his credentials, or been recognized as a public minister. One or both of these privateers make captures of British vessels in the neighborhood of our coast, and bring or send their prizes into our ports. The British Minister Plenipotentiary, among other things, demands a restitution of these prizes. Ought the demand to be complied with?

I am of opinion that it ought to be complied with, and for the following reasons.

The proceedings in question are highly exceptionable, both as they respect our rights and as they make us an instrument of hostilities against Great Britain.

The jurisdiction of every *independent* nation within its own territories naturally excludes all exercise of authority by any other government within those territories, unless by its own consent, or in consequence of stipulations in treaties. Every such exercise of authority, therefore, not warranted by consent or treaty, is an intrusion on the jurisdiction of the country within which it is exercised, and amounts to an injury and affront, more or less great, according to the nature of the case.

The equipping, manning, and commissioning of vessels of war—the enlisting, levying, or raising of men for military service, whether by land or sea,

all which are essentially of the same nature, are among the highest and most important exercises of sovereignty.

It is, therefore, an injury and an affront of a very serious kind, for one nation to do acts of the above description within the territories of another, without its consent or permission.

This is a principle so obvious in itself, that it does not stand in need of confirmation from authorities; yet the following passage from VATEL, as to one of the points included in the case, is so pertinent and forcible, that it cannot be improper to quote it. It is found Book III., Chap. II., sec. 15, in these words; "As the right of levying soldiers belongs solely to the nation, so no person is to enlist soldiers in a foreign country without the permission of the sovereign. They who undertake to enlist soldiers in a foreign country, without the sovereign's permission, and in general, *whoever alienates the subjects of another*, violates one of the *most sacred rights* both of the prince and of the state. Foreign *recruiters are hanged immediately*, and very justly; as it is not to be presumed that their sovereign ordered them to commit the crime; and if they did receive such an order, they ought not to obey it, their sovereign having no right to command what is contrary to the law of nature. It is not, I say, apprehended that these recruiters act by order of their sovereign, and usually they who have practised seduction only are, if taken, severely punished. If they have used violence, and made their escape, they are claimed, and the men they have carried off demanded. *But*

if it appears that they acted by order, such a proceeding in a foreign sovereign is justly considered as an injury, and as a sufficient cause for declaring war against him, unless he condescends to make suitable reparation."

The word soldier, here made use of, is to be understood to mean all persons engaged or enlisted for military service, seamen as well as landsmen. The principle applies equally to the former as to the latter. This, it is imagined, will not be questioned.

In the case under consideration, there was neither treaty nor consent to warrant what was done; and the case is much stronger than a mere levying of men.

The injury and insult to our government, then, under the facts stated, cannot be doubted. The right to reparation follows of course. It remains to inquire whether we are under an obligation to redress any injury which may have accrued to Great Britain from the irregularity committed towards us. The existence of such an obligation is affirmed upon the following grounds:

It is manifestly contrary to the duty of a neutral nation to suffer itself to be made the *instrument of* hostility by one Power at war against another. In doing it, such nation becomes an associate, a party.

The United States would become effectually an instrument of hostility to France against the other Powers at war, if France could, *ad libitum*, build, equip, and commission, in their ports, vessels of war—man those vessels with their seamen—send them out of their ports to cruise against the enemies of France—bring or send the vessels and property taken from

those enemies *into* their ports—dispose of them there; with a right to repeat these expeditions as often as she should find expedient.

By the same rule, that France could do these things, she could issue commissions among us at pleasure for raising any number of troops—could march those troops toward our frontiers—attack from thence the territories of Spain or England—return with the plunder which had been taken within our territories—go again on new expeditions, and repeat them as often as was found advantageous.

There can be no material difference between the two cases—between preparing the means in, and carrying on from our ports naval expeditions, and preparing the means in, and carrying on from our territories land expeditions against the enemies of France. The principle in each case would be the same.

And from both or either would result a state of war between us and those enemies, of the worst kind for them, as long as it was tolerated. I say a state of war of the worst kind, because while the resources of our country would be employed in annoying them, the instruments of this annoyance would be occasionally protected from pursuit by the privileges of our ostensible neutrality.

It is easy to see that such a state of things would not be tolerated longer than till it was perceived, and that we should quickly and with good reason be treated as an associate of the power whose instrument we had been made.

If it is inconsistent with the duties of neutrality

to permit the practices described to an indefinite extent, it must be alike inconsistent with those duties to permit them to any extent. The quality of the fact, not the degree, must be the criterion.

It has indeed been agreed that we are bound to *prevent* the practices in question in future, and that an assurance shall be given to the British minister, that *effectual measures* will be taken for that purpose.

But it is denied that we are bound to interpose, to remedy the effects which have hitherto ensued.

The obligation to prevent an injury, usually, if not universally, includes that of repairing or redressing it when it has happened.

If it be contrary to the duty of the United States as a neutral nation, to suffer cruisers to be fitted out of their ports to annoy the British trade, it comports with their duty to remedy the injury which may have been sustained, when it is in their power so to do.

If it be said that what was done took place before the government could be prepared to prescribe a preventive, and that this creates a dispensation from the obligation to redress, the answer is:

That a government is responsible for the conduct of all parts of a community over which it presides; that it is to be supposed to have at all times a competent police everywhere to prevent infractions of its duty toward foreign nations; that in the case in question, the magistracy of the place ought not to have permitted what was done, and that the government is answerable for the consequences of its omissions.

It is true that in a number of cases a government may excuse itself for the non-performance of its

duty, on account of the want of time to take due precautions, from the consideration of the thing having been unexpected and unforeseen, etc.; and justice often requires that excuses of this kind, *bona fide* offered, should be admitted as satisfactory.

But such things are only *excuses*, not *justifications*, and they are only then to be received when a remedy is not within the reach of the party.

If the privateers expedited from Charleston had been sent to the French dominions, there to operate out of our reach, the excuse of want of time to take due precautions ought to have been satisfactory to Great Britain. But now that they have sent their prizes into our ports, that excuse cannot avail us. We have it in our power to administer a specific remedy, by causing restitution of the property taken, and it is conceived to be our duty to do so. It is objected to this, that the commissions which were issued are valid between the parties at war, though irregular with respect to us; that the captures made under them are therefore valid captures, vesting the property in the captors, of which they cannot be deprived without a violation of their rights, and an aggression on our part.

It is believed to be true that the commissions are in a legal sense valid as between the parties at war. But the inference drawn from this position does not seem to follow.

It has been seen that what has been done on the part of the French is a violation of our rights, for which we have a *claim to reparation*, and a right to make war, if it be refused. We may reasonably

demand, then, as the reparation to which we are entitled, restitution of the property taken, with or without an apology for the infringement of our sovereignty. This we have a right to demand, as a species of reparation consonant with the nature of the injury, and enabling us to do justice to the party, in injuring whom we have been made instrumental. It can therefore be no just cause of complaint on the part of the captors, that they are required to surrender a property, *the means of acquiring which took their origin in a violation of our rights.*

On the other hand, there is a claim upon us to arrest the effects of the injury or annoyance to which we have been made accessory. To insist, therefore, upon the restitution of the property taken will be to enforce a *right*, in order to the performance of a *duty*.

The effects of captures under the commissions, however valid between the parties at war, have no validity against us. Originating in a violation of our rights, we are nowise bound to respect them.

Why, then, (it may be asked) not send them to the animadversion and decision of the courts of justice? Because it is believed they are not competent to the decision; the whole is an affair between the governments of the parties concerned, to be settled by reasons of state, not rules of law.

'T is the case of an infringement of our sovereignty, to the prejudice of a third party; in which the government is to demand a reparation, with the double view of vindicating its own rights, and doing justice to the suffering party.

A comparison of this case with that of contraband articles can only mislead—a neutral nation has a general right to trade with a Power at war. The exception of contraband articles is an exception of necessity; it is a qualification of the general right of the neutral nation in favor of the safety of the belligerent party. And it is from this cause, and the difficulty of tracing it in the course of commercial dealings, that for the peace of nations, the external penalty of confiscation is alone established. The neutral nation is only bound to abandon its subjects to that penalty, not to take internal measures to prevent and punish the practice. The state of peace between two nations, on the other hand, makes it intrinsically criminal in either nation, or in the subjects of either, to engage in actual hostilities against the other. The sovereign of each nation is bound to prevent this by internal regulations and measures; and of course to give redress where the offence has been committed.

What has been agreed to be done in the present case acknowledges the distinction and establishes the consequences. While it was refused to interfere to prevent the shipment of arms, it has been agreed that measures should be taken towards punishing our citizens who engaged on board the privateers; and to assure the British minister that effectual measures would be taken to prevent a repetition of the thing complained of. Hence a recognized distinction of principle, and a virtual recognition of the consequences contended for.

As little to the purpose is the example of cases in

which particular nations permit the levying of troops among them by the parties at war. The almost continually warlike posture of Europe, can alone have produced the toleration of a practice so inconsistent with morality and humanity; but allowing these examples their full force, they are at an *infinite distance* from the case of raising, equipping, and organizing, within the neutral territory an armed force—sending it on expeditions against a party at war, and bringing back their spoils into the neutral country.

If the view which has been taken of the subject be a just one, Great Britain will have a right to consider our refusal to cause restitution to be made, as equivalent to our becoming an accomplice in the hostility —as a departure from neutrality—as an aggression upon her. Hence we shall furnish the cause of war, and endanger the existence of it.

I infer, then, that we equally owe it to ourselves, and to Great Britain, to cause restitution to be made of the property taken. In the case of so palpable and serious a violation of our rights, aggravated by several collateral circumstances, the mention of which is purposely waived, a decided conduct appears most consistent with our honor and with our future safety. A. HAMILTON.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

TREASURY DEPARTMENT, June 3, 1793.

SIR:—It was not till within an hour that I received your letter of the 1st, with the papers accompanying

it. I approve all the drafts of letters as they stand, except that I have some doubts about the concluding sentence of that on the subject of HENFIELD.[1] If the *facts* are (as I presume they are) established, may it not be construed into a wish that there may be found no law to punish a conduct in our citizens which is of a tendency dangerous to the peace of the nation, and injurious to Powers with whom we are on terms of peace and neutrality?

I should also like to substitute, for the words, "have the favorable issue you desire," these words, "issue accordingly."

I retain till to-morrow the paper relating to an agent to the Choctaws. My judgment is not entirely made up on the point—the state of my family and my own health having prevented due reflection upon it.

With great respect, I have the honor to be, etc.

HAMILTON TO WASHINGTON

(Cabinet Paper.)

June 5, 1793.

The Secretary of the Treasury, to whom were referred, by the President of the United States, sundry documents communicated by the Minister Plenipotentiary of the Republic of France, respectfully makes the following report thereupon:

The object of the communication appears to be to engage the United States to enter into arrange-

[1] Henfield had been arrested for enlisting at Charleston on a French privateer, *The Citoyen Genet*, in order to serve (to quote the language of the Attorney-General) "against a nation at peace with the United States, in violation of treaties and the supreme law of the land."

ments for discharging the residue of the debt which they owe to France by an *anticipated* payment of the instalments not yet due, either in specie, bank bills of equal currency with specie, or in government bonds, bearing interest, and payable at certain specified periods, upon condition that the sum advanced shall be invested in productions of the United States for the supply of the French dominions.

This object is the same which came under consideration on certain propositions lately made by Col. W. S. Smith, who appears to have been charged by the Provisional Executive Council of France with a negotiation concerning it; in reference to which it was determined by the President, with the concurring opinions of the Heads of Departments, and the Attorney-General, that the measure was ineligible, and that the proposer would be informed that it did not consist with the arrangements of the government to adopt it.

The grounds of the determination were purely political—nothing has hitherto happened to weaken them. The decision on the application of the Minister Plenipotentiary of France will therefore naturally correspond with that on the propositions of Col. Smith. This, indeed, is signified to be the intention of the President.

It consequently only remains to make known the determination to the minister, in answer to his application, with or without reasons.

The following considerations seem to recommend a simple communication of the determination without reasons, viz.:

I. The United States not being bound by the terms of their contract to make the anticipated payment desired, there is no necessity for a specification of the motives for not doing it.

II. No adequate reasons but the true ones can be assigned for the non-compliance, and the assignment of these would not be wholly without inconvenience. The mention of them might create difficulties in some future stage of affairs, when they may have lost a considerable portion of their force.

The following answer, in substance, is presumed, then, to be the most proper which can be given:

"That a proposition to the same effect was not long since brought forward by Col. Smith, as having been charged with a negotiation on the subject by the Provisional Executive Council of France. That it was then, upon full consideration, concluded not to accede to the measure, for reasons which continue to operate, and consequently lead at this time to the same conclusion; that an explanation of these reasons would with pleasure be entered into, were it not for the considerations that it could have no object of present utility, and might rather serve to occasion embarrassments in future."

Which is humbly submitted.

A. HAMILTON.

The above having been communicated by the President to me, I wrote the following letter.

THOMAS JEFFERSON.

JEFFERSON TO WASHINGTON

(Cabinet Paper.)

June 6, 1793.

SIR:—I cannot but think that to decline the propositions of Mr. Genet, on the subject of our debt, without assigning any reason at all, would have a very dry and unpleasant aspect indeed. We are, then, to examine what are good reasons for the refusal, which of them may be spoken out, and which not.

1. Want of confidence in the continuance of the present form of government, and consequently the *advance* to them might commit us with their successors. This cannot be spoken out.

2. They propose to take the debt in produce. It would be better for us that it should be done in moderate masses, yearly, than in one year. This cannot be professed.

3. When Mr. de Calonne was Minister of Finance, a Dutch company proposed to buy up the whole of our debt, by dividing it into actions or shares. I think Mr. Claviere, now Minister of Finance, was their agent. It was observed to Mr. de Calonne, that to create such a mass of American paper, divide it into shares, and let them deluge the market, would depreciate them, the rest of our paper, and our credit in finance; that the credit of a nation was a delicate and important thing, and should not be risked in such an operation. Mr. de Calonne, sensible of the injury of the operation to us, declined it. In May, 1791, there came through Mr. Otto a similar proposition from S. J. & Co. We had received letters

on the subject from Mr. Short, urging this same reason strongly. It was referred to the Secretary of the Treasury, who, in a letter to yourself, assigned the reasons against it, and these were communicated to Mr. Otto, who acquiesced in them. This objection, then, having been sufficient to decline the proposition twice before, and having been urged to the two preceding forms of government (the ancient, and that of 1791), will it not be considered by them as founded in objections to the present form?

4. The law allows the whole debt to be paid only on condition it can be done on terms *advantageous* to the United States. The minister foresees this objection, and thinks he answers it by observing the *advantage* which the payment in produce will occasion. It would be easy to show that this was not the sort of advantage the Legislature meant, but *a lower rate of interest.*

5. I cannot but suppose that the Secretary of the Treasury, who is much more familiar than I am with the money operations of the Treasury, would, on examination, be able to derive practical objections from them. We pay to France but five per cent. The people of this country would never subscribe their money but for six. If to remedy this obligation at less than five per cent. were offered and accepted by Mr. Genet, he must part with them immediately at a considerable discount to indemnify the loss of the one per cent., and at a still greater discount to bring them down to par with our present six per cents., so that the operation would be equally disgraceful to us and losing to them, etc., etc.

I think it very material myself to keep alive the friendly sentiments of that country, as far as can be done without risking war or double payments. If the instalments falling due in this year can be advanced without incurring more dangers, I should be for doing it. We now see by the declaration of the Prince of Saxe Coburg, on the part of Austria and Prussia, that the ultimate point they desire is to restore the Constitution of 1791. Were this even to be done before the pay days of this year, there is no doubt in my mind but that that government (as republican as the present except in the form of its Executive) would confirm an advance so moderate in sum and time.

I am sure the *nation* of France would never suffer their government to go to war *with us* for such a bagatelle, and the more surely if that bagatelle shall have been granted by us so as to *please* and not to *displease* the nation, so as to keep their affections engaged on our side; so that I should have no fear in advancing the instalments of this year at epochs convenient to the Treasury, but at any rate I should be for assigning reasons for not changing the form of the debt.

These thoughts are very hastily thrown on paper, as will be but too evident. I have the honor to be, with sentiments of sincere attachment and respect, sir,

Your most obedient and most humble servant,

TH. JEFFERSON.

JEFFERSON TO WASHINGTON

(Cabinet Paper.)

The President concurring with the preceding letter, and so signifying to Col. Hamilton, he erased the words, "which is humbly submitted," in the former report, and added in the same paper as follows:

"If, nevertheless, the President should be of opinion that reasons ought to be assigned, the following seem to be the best which the nature of the case will admit, viz.:

"Two modes of reimbursing or discharging by *anticipation* the residue of the debt which the United States owes to France are proposed.

"The first, by a payment in specie, or bank bills having a currency equal with specie, which amounts to the same thing.

"The second, by government bonds, bearing interest, and payable at certain specified periods.

"With regard to the first expedient, the resources of the Treasury of the United States do not admit of its being adopted. The government has relied for the means of reimbursing the foreign debt of the country on loans to be made abroad; the late events in Europe have thrown a temporary obstacle in the way of these loans, producing an inability to make anticipated payments of sums hereafter to grow due.

"With regard to the second expedient, it has repeatedly come under consideration, and has uniformly been declined as ineligible. The government has perceived and continues to perceive great inconvenience to its credit, tending to the derangement of

its general operations of finance, in every plan which is calculated to throw suddenly upon the market a large additional sum of its bonds. The present state of things, for obvious reasons, would serve to augment the evil of such a circumstance; while the existing and possible exigencies of the United States admonish them to be particularly cautious, at the present juncture, of any measure which may in any degree serve to impair or hazard their credit.

"These considerations are the more readily yielded to, from a belief that the utility of the measure to France might not, on experiment, prove adequate to the sacrifices which she would have to make on the sale of the bonds.

"All which is humbly submitted."

This being put into my hands by the President, I wrote the following note.

JEFFERSON TO WASHINGTON

(Cabinet Paper.)

June 17, 1793.

Th. Jefferson has the honor of returning to the President the Report of the Secretary of the Treasury on the proposition of Mr. Genet. He is of the opinion that all may be omitted which precedes the words, "Two modes of reimbursing," etc., which follows "of the reasons that are proper and not offensive." The following passage should perhaps be altered: "It has repeatedly come under consideration, and has uniformly been declined as ineligible." The present proposition varies from that

repeatedly offered in the circumstances which are of some importance, and is accordingly made by the minister, viz., the offer to take the payment in the produce of the United States. A very slight alteration will qualify this expression—thus agreeing to the fact without abating the force of the argument.

HAMILTON TO WASHINGTON

(Cabinet Paper.)

TREASURY DEPARTMENT, 8th June, 1793.

SIR:—I have the honor to send you a report on the communication from the Minister Plenipotentiary of France, respecting the reimbursement of the residue of the debt of the United States to that country, altered in conformity to your desire; and to be, with perfect respect, etc.

ALEXANDER HAMILTON.

TREASURY DEPARTMENT, June 8, 1793.

The Secretary of the Treasury, to whom was referred a communication from the Minister Plenipotentiary of the Republic of France, on the subject of the debt of the United States to France, respectfully makes thereupon the following report:

The object of this communication is to engage the United States to enter into an arrangement for discharging the residue of the debt which they owe to France by an *anticipated payment* of the instalments not yet due, either in specie or bank bills of equal currency with specie, or in government bonds bearing interest and payable at certain specified periods, upon condition that the sum advanced shall be in-

vested in productions of the United States for the supply of the French dominions.

With regard to the first expedient, namely, a payment in specie or bank bills, the resources of the Treasury of the United States do not admit of its being adopted. The government has relied for the means of reimbursing its foreign debt on new loans to be made abroad. The late events in Europe have thrown a temporary obstacle in the way of these loans—producing, consequently, an inability to make payment, by anticipation of the residue of the debt hereafter to grow due.

With regard to the second expedient, that of government bonds payable at certain specified periods, this in substance, though in other forms, has repeatedly come under consideration, and has as often been declined as ineligible. Great inconveniences to the credit of the government, tending to derange its general operations of finance, have been and must continue to be perceived, in every plan which is calculated to throw suddenly upon the market a large additional sum of its bonds. The present state of things, for obvious reasons, would serve to augment the evil of such a circumstance; while the existing and possible exigencies of the United States admonish them to be particularly cautious, at this juncture, of any measure which may tend to hazard or impair their credit.

These considerations greatly outweigh the advantage, which is suggested as an inducement to the measure (the condition respecting which, is the principal circumstance of difference between the present

and former propositions), to arise from an investment of the sum to be advanced in the products of the country; an advantage on which perhaps little stress can be laid, in the present and probable state of foreign demand for those products.

The motives which dissuade from the adoption of the proposed measure may, it is conceived, be the more readily yielded to from the probability that the utility of it to France might not, on experiment, prove an equivalent for the sacrifices which she might have to make in the disposition of the bonds.

HAMILTON TO JEFFERSON

(Cabinet Paper.)

TREASURY DEPARTMENT, June 10, 1793.

SIR:—The Comptroller of the Treasury has reported to me, that on examining the subsisting contracts between the United States and the government of France and the Farmers General, and a comparison thereof with the foreign accounts and documents transmitted to the Treasury, the following facts appear:

That previous to the treaty of February, 1778, the sum of three millions of livres had been advanced by the government of France to the agents of the United States, under the title of *gratuities*, for which no reimbursement was to be made.

That the payments, which composed the beforementioned sum of three millions of livres, are stated, in a letter of Mr. Durival to Mr. Grand, dated in 1786, to have been made at the following periods:

One million delivered by the Royal Treasury the 10th of June, 1776, and two other millions advanced also by the Royal Treasury in 1777, on four receipts of the deputies of Congress, of the 17th of January, 3d of April, 10th of June, and 15th of October of the same year.

In the accounts of Mr. Ferdinand Grand, banker of the United States, the following sums are credited, viz.:

1777. January 31	500,000	livres.
April 26	500,000	"
June 4	1,000,000	"
July 3	500,000	"
October 10	500,000	"
Amount in the whole	3,000,000	livres.

The Farmers General of France claim a large balance from the United States, on account of one million of livres, which they contend was advanced in June, 1777, in consequence of a special contract with Messrs. Franklin and Deane, to be repaid by the delivery of tobacco at certain stipulated prices, and the advance made by the Farmers General is said to be the same money as is credited by Mr. Grand on the 4th of June, 1777.

After a careful examination of the foreign accounts, it is found that no more than three millions of livres have been credited by any agent of the United States.

An opinion was entertained by the late officers of the Treasury, that the sum claimed by the Farmers General composed a part of the sum supplied as

gratuitous aid by the government. Subsequent explanations have, however, rendered it probable that, including the claim of the Farmers General, the sum of four millions of livres was in fact received; it is, however, indispensable that it should be known to whom the money was paid.

The most direct mode of obtaining this information will be, to call for copies of the receipts mentioned in Mr. Durival's letter of 1786, and more particularly a copy of that said to have been given on the 10th of June, 1776.

And as explanatory of the transaction, he has sent me the documents herewith transmitted.

The most likely conjecture, in my mind, considering the period of the advance, and the circumstances of that period, is, that the unaccounted for million went into the hands of M. de Beaumarchais. The supplies which he furnished to the United States exceeded his own probable resources, besides the imprudence of having hazarded so much at that stage of our affairs upon our ability to pay. And there were many symptoms, at the time, of his having been secretly put in motion by the government.

It has now become urgent that the truth of the case should be known. An account has recently passed the auditor's office, admitting in favor of M. de Beaumarchais a balance of four hundred and twenty-two thousand two hundred and sixty-five dollars and thirteen cents, with a reservation only of the question of the million. If he has received that million which has been acknowledged as a free gift from the French government, it is unjust that he

should be able to establish a claim against the United States for supplies which must have been the proceeds of that sum. If he has never received the million, every day's suspension of his claim, after the immense delays heretofore incurred, is a grievous hardship upon him. It concerns materially the interests, and more the justice, the credit, and the character of the United States, that as speedy a solution as possible of the enigma may be obtained.

With a view to this, I have the honor to make you the present communication, that you may be pleased to take such steps as shall appear to you the most proper and efficacious to procure, as speedily as the nature of the case will admit, the requisite explanations.

HAMILTON TO WASHINGTON

(Cabinet Paper.)

(*Private.*)

PHILADELPHIA, June 15, 1793.

SIR:—The inclosed report will, I trust, make it appear that there are good reasons relative to the execution of the purposes specified in the laws for making a further loan to the extent proposed.

But, bottoming the proceeding upon the direct object of the laws, as the legal and primary inducement, it appears to me justifiable and wise to embrace, as secondary and collateral motives, the probable operation of the measure on the public interests, in ways not immediately indicated in the laws. On this ground, I think the legal considerations for

a further loan are enforced by the general state of affairs at the present juncture.

Should a general Indian war ensue, and, still more, should we unfortunately be involved in a European war, nothing could be more convenient than to have anticipated such a resource, which the Legislature might apply to the new exigencies, as far as regards the purchase of the debt, without any violation of principle.

In the event of a European war breaking out, it would probably be too late to attempt what, beforehand, would be practicable without difficulty.

With perfect respect, and the truest attachment, etc.

PACIFICUS [1]

(From the *Gazette of the United States.*)

NO. I

June 29, 1793.

As attempts are making very dangerous to the peace, and, it is to be feared, not very friendly to the Constitution, of the United States, it becomes the duty of those who wish well to both, to endeavor to prevent their success.

[1] The disturbance raised by Genet spread rapidly, and there was great popular feeling and much excitement in favor of France. In fact a French party was formed and democratic societies sprang up everywhere. The flame was fanned by the opposition, and the result was a series of attacks upon the administration, and especially upon Washington, for issuing the proclamation of neutrality. In this state of affairs Hamilton took the field in the essays signed Pacificus, defending the neutrality policy and the right and duty of the President to issue the proclamation. As always, his writings produced a marked effect, and Jefferson instigated Madison to publish a reply signed Helvidius, but Hamilton had the best of the discussion.

The objections which have been raised against the proclamation of neutrality, lately issued by the President, have been urged in a spirit of acrimony and invective, which demonstrates that more was in view than merely a free discussion of an important public measure. They exhibit evident indications of a design to weaken the confidence of the people in the author of the measure, in order to remove or lessen a powerful obstacle to the success of an opposition to the government, which, however it may change its form according to circumstances, seems still to be persisted in with more untiring industry.

This reflection adds to the motives connected with the measure itself, to recommend endeavors by proper explanations, to place it in a just light. Such explanations, at least, cannot but be satisfactory to those who may not themselves have leisure or opportunity for pursuing an investigation of the subject, and who may wish to perceive that the policy of the government is not inconsistent with its obligations or its honor.

The objections in question fall under four heads:

1. That the proclamation was without authority.

2. That it was contrary to our treaties with France.

3. That it was contrary to the gratitude which is due from this to that country, for the succors afforded to us in our own revolution.

4. That it was out of time and unnecessary.

In order to judge of the solidity of the first of these objections, it is necessary to examine what is the nature and design of a proclamation of neutrality.

It is to *make known* to the Powers at war, and to the citizens of the country whose government does the act, that such country is in the condition of a nation at peace with the belligerent parties, and under no obligations of treaty to become an *associate in the war* with either, and that this being its situation, its intention is to observe a corresponding conduct by performing towards each the duties of neutrality; to warn all persons within the jurisdiction of that country to abstain from acts that shall contravene those duties, under the penalties which the laws of the land, of which the *jus gentium* is part, will inflict.

This, and no more, is conceived to be the true import of a proclamation of neutrality.

It does not imply that the nation which makes the declaration will forbear to perform to either of the warring Powers any stipulations in treaties which can be executed without becoming a *party* in the war. It therefore does not imply in our case that the United States will not make those distinctions between the present belligerent Powers which are stipulated in the 7th and 22d articles of our treaty with France, because they are not incompatible with the state of neutrality and will in no shape render the United States an *associate* or *party* in the war. This must be evident when it is considered that even to furnish *determinate* succors of ships or troops to a Power at war, in consequence of *antecedent treaties having no particular reference to the existing quarrel*, is not inconsistent with neutrality; a position equally well established by

the doctrines of writers and the practice of nations.[1]

But no special aids, succors, or favors, having relation to war, not positively and precisely stipulated by some treaty of the above description, can be afforded to either party without a breach of neutrality.

In stating that the proclamation of neutrality does not imply the non-performance of any stipulations of treaties which are not of a nature to make the nation an associate in the war, it is conceded that an execution of the clause of guaranty, contained in the eleventh article of our treaty of alliance with France, would be contrary to the sense and spirit of the proclamation because it would engage us with our whole force as an *auxiliary* in the war; it would be much more than the case of a definite succor, previously ascertained.

It follows that the proclamation is virtually a manifestation of the sense of government, that the United States are, *under the circumstances of the case, not bound* to execute the clause of guaranty.

If this be a just view of the force and import of the proclamation, it will remain to see whether the President, in issuing it, acted within his proper sphere, or stepped beyond the bounds of his constitutional authority and duty.

It will not be disputed that the management of the affairs of this country with foreign nations is confided to the Government of the United States.

It can as little be disputed that a proclamation of

[1] See Vatel, Book III., chap. vi., § 101.

neutrality, when a nation is at liberty to decline or avoid a war in which other nations are engaged, and means to do so, is a *usual* and a *proper* measure. *Its main object is to prevent the nation's being responsible for acts done by its citizens, without the privity or connivance of the government, in contravention of the principles of neutrality*[1]; an object of the greatest moment to a country whose true interest lies in the preservation of peace.

The inquiry, then, is, what department of our government is the proper one to make a declaration of neutrality, when the engagements of the nation permit, and its interests require that it should be done?

A correct mind will discern at once, that it can belong neither to the legislative nor judicial department, and therefore of course must belong to the executive.

The legislative department is not the *organ* of intercourse between the United States and foreign nations. It is charged neither with *making* nor *interpreting* treaties. It is therefore not naturally that member of the government which is to pronounce on the existing condition of the nation with regard to foreign powers, or to admonish the citizens of their obligations and duties in consequence; still less is it charged with enforcing the observance of those obligations and duties.

It is equally obvious, that the act in question is foreign to the judiciary department. The province of that department is to decide the litigation in par-

[1] See Vatel, Book III., chap. vii., § 113.

ticular cases. It is indeed charged with the interpretations of treaties, but it exercises this function only where contending parties bring before it a specific controversy. It has no concern with pronouncing upon the external political relations of treaties between government and government. This position is too plain to need being insisted upon.

It must, then, of necessity belong to the executive department to exercise the function in question, when a proper case for it occurs.

It appears to be connected with that department in various capacities:—As the *organ* of intercourse between the nation and foreign nations; as the *interpreter* of the national treaties, in those cases in which the judiciary is not competent—that is, between government and government; as the *power* which is charged with the execution of the laws, of which treaties form a part; as that which is charged with the command and disposition of the public force.

This view of the subject is so natural and obvious, so analogous to general theory and practice, that no doubt can be entertained of its justness, unless to be deduced from particular provisions of the Constitution of the United States.

Let us see, then, if cause for such doubt is to be found there.

The second article of the Constitution of the United States, section first, establishes this general proposition, that "the EXECUTIVE POWER shall be vested in a President of the United States of America."

The same article, in a succeeding section, proceeds to delineate particular cases of executive power. It declares, among other things, that the President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; that he shall have power, by and with the advice and consent of the Senate, to make treaties; that it shall be his duty to receive ambassadors and other public ministers, *and to take care that the laws be faithfully executed.*

It would not consist with the rules of sound construction, to consider this enumeration of particular authorities as derogating from the more comprehensive grant in the general clause, further than as it may be coupled with express restrictions or limitations; as in regard to the co-operation of the Senate in the appointment of officers and the making of treaties; which are plainly qualifications of the general executive powers of appointing officers and making treaties. The difficulty of a complete enumeration of all the cases of executive authority would naturally dictate the use of general terms, and would render it improbable that a specification of certain particulars was designed as a substitute for those terms, when antecedently used. The different mode of expression employed in the Constitution, in regard to the two powers, the legislative and the executive, serves to confirm this inference. In the article which gives the legislative powers of the government, the expressions are: "All legislative powers herein granted shall be vested in a Congress

of the United States." In that which grants the executive power, the expressions are: "*The executive power* shall be vested in a President of the United States."

The enumeration ought therefore to be considered as intended merely to specify the principal articles implied in the definition of executive power; leaving the rest to flow from the general grant of that power, interpreted in conformity with other parts of the Constitution, and with the principles of free government.

The general doctrine of our Constitution, then, is, that the *executive power* of the nation is vested in the President; subject only to the *exceptions* and *qualifications* which are expressed in the instrument.

Two of these have been already noticed: the participation of the Senate in the appointment of officers, and in the making of treaties. A third remains to be mentioned: the right of the Legislature "to declare war, and grant letters of marque and reprisal."

With these exceptions, the *executive power* of the United States is completely lodged in the President. This mode of construing the Constitution has indeed been recognized by Congress in formal acts, upon full consideration and debate; of which the power of removal from office is an important instance. It will follow, that if a proclamation of neutrality is merely an executive act, as, it is believed, has been shown, the step which has been taken by the President is liable to no just exception on the score of authority.

It may be said, that this inference would be just, if the power of declaring war had not been vested in the Legislature; but that this power naturally includes the right of judging whether the nation is or is not under obligations to make war.

The answer is, that, however true this position may be, it will not follow that the executive is in any case excluded from a similar right of judgment, in the execution of its own functions.

If, on the one hand, the Legislature have a right to declare war, it is on the other, the duty of the executive to preserve peace till the declaration is made; and in fulfilling this duty, it must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government; and when it has concluded that there is nothing in them inconsistent with neutrality, it becomes both its province and its duty to enforce the laws incident to that state of the nation. The executive is charged with the execution of all laws, the law of nations, as well as the municipal law, by which the former are recognized and adopted. It is consequently bound, by executing faithfully the laws of neutrality, when the country is in a neutral position, to avoid giving cause of war to foreign Powers.

This is the direct end of the proclamation of neutrality. It declares to the United States their situation with regard to the contending parties, and makes known to the community, that the laws incident to that state will be enforced. In doing this, it conforms to an established usage of nations, the

operation of which, as before remarked, is to obviate a responsibility on the part of the whole society, for secret and unknown violations of the rights of any of the warring Powers by its citizens.

Those who object to the proclamation will readily admit, that it is the right and duty of the executive to interpret those articles of our treaties which give to France particular privileges, in order to the enforcement of them: but the necessary consequence of this is, that the executive must judge what are their proper limits; what rights are given to other nations, by our contracts with them; what rights the law of nature and nations gives, and our treaties permit, in respect to those countries with which we have none; in fine, what are the reciprocal rights and obligations of the United States, and of all and each of the Powers at war.

The right of the executive to receive ambassadors and other public ministers, may serve to illustrate the relative duties of the executive and legislative departments. This right includes that of judging, in the case of a revolution of government in a foreign country, whether the new rulers are competent organs of the national will, and ought to be recognized or not; which, where a treaty antecedently exists between the United States and such nation, involves the power of continuing or suspending its operation. For until the new government is *acknowledged*, the treaties between the nations, so far at least as regards *public* rights, are of course suspended.

This power of determining virtually upon the

operation of national treaties, as a consequence of the power to receive public ministers, is an important instance of the right of the executive to decide upon the obligations of the country with regard to foreign nations. To apply it to the case of France, if there had been a treaty of alliance, *offensive* and defensive, between the United States and that country, the unqualified acknowledgment of the new government would have put the United States in a condition to become an associate in the war with France, and would have laid the Legislature under an obligation, if required, and there was otherwise no valid excuse, of exercising its power of declaring war.

This serves as an example of the right of the executive, in certain cases, to determine the condition of the nation, though it may, in its consequences, affect the exercise of the power of the Legislature to declare war. Nevertheless, the executive cannot thereby control the exercise of that power. The Legislature is still free to perform its duties, according to its own sense of them; though the executive, in the exercise of its constitutional powers, may establish an antecedent state of things, which ought to weigh in the legislative decisions.

The division of the executive power in the Constitution creates a *concurrent* authority in the cases to which it relates.

Hence, in the instance stated, treaties can only be made by the President and Senate jointly; but their activity may be continued or suspended by the President alone.

No objection has been made to the President's

having acknowledged the republic of France, by the reception of its minister, without having consulted the Senate; though that body is connected with him in the making of treaties, and though the consequence of his act of reception is to give operation to those heretofore made with that country. But he is censured for having declared the United States to be in a state of peace and neutrality with regard to the Powers at war, because the right of *changing* that state, and *declaring war*, belongs to the Legislature.

It deserves to be remarked, that as the participation of the Senate in the making of treaties, and the power of the Legislature to declare war, are exceptions out of the general "executive power" vested in the President, they are to be construed strictly, and ought to be extended no further than is essential to their execution.

While, therefore, the Legislature can alone declare war, can alone actually transfer the nation from a state of peace to a state of hostility, it belongs to the "executive power" to do whatever else the law of nations, co-operating with the treaties of the country, enjoin in the intercourse of the United States with foreign Powers.

In this distribution of authority, the wisdom of our Constitution is manifested. It is the province and duty of the executive to preserve to the nation the blessings of peace. The Legislature alone can interrupt them by placing the nation in a state of war.

But though it has been thought advisable to vindicate the authority of the executive on this broad

and comprehensive ground, it was not absolutely necessary to do so. That clause of the Constitution which makes it his duty to "take care that the laws be faithfully executed," might alone have been relied upon, and this simple process of argument pursued:

The President is the Constitutional EXECUTOR of the laws. Our treaties, and the laws of nations, form a part of the law of the land. He who is to execute the laws must first judge for himself of their meaning. In order to the observance of that conduct which the laws of nations, combined with our treaties, prescribed to this country, in reference to the present war in Europe, it was necessary for the President to judge for himself, whether there was any thing in our treaties incompatible with an adherence to neutrality. Having decided that there was not, he had a right, and if in his opinion the interest of the nation required it, it was his duty as executor of the laws, to proclaim the neutrality of the nation, to exhort all persons to observe it, and to warn them of the penalties which would attend its non-observance.

The proclamation has been represented as enacting some new law. This is a view of it entirely erroneous. It only proclaims a *fact*, with regard to the *existing state* of the nation; informs the citizens of what the laws previously established require of them in that state, and notifies them that these laws will be put in execution against the infractors of them.

PACIFICUS.

NO. II

July 3, 1793.

The second and principal objection to the proclamation, namely, that it is inconsistent with the treaties between the United States and France, will now be examined.

It has been already shown that it does not militate against the performance of any of the stipulations in those treaties, which would not make us an associate or party in the war, and especially that it does not interfere with the privileges secured to France by the seventeenth and twenty-second articles of the treaty of commerce, which, except the clause of guaranty, constitute the most material discriminations to be found in our treaties in favor of that country.

Official documents have likewise appeared in the public papers, which serve as a comment upon the sense of the proclamation in this particular, proving that it was not deemed by the executive incompatible with the performance of the stipulations in those articles, and that in practice they are intended to be observed.

It has, however, been admitted that the declaration of neutrality excludes the idea of an execution of the clause of guaranty.

It becomes necessary, therefore, to examine whether the United States would have a valid justification for not complying with it, in case of their being called upon for that purpose by France.

Without knowing how far the reasons which have occurred to me may have influenced the President,

there appear to me to exist very good and substantial grounds for a refusal.

The alliance between the United States and France is of the defensive kind. In the caption it is denominated a "treaty of alliance eventual and defensive." In the body (article the second) it is called a defensive alliance. The words of that article are as follows: "The essential and direct end of the present defensive alliance is to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the United States, as well in matters of government as of commerce."

The leading character, then, of our alliance with France being defensive, it will follow that the meaning, obligation, and force of every stipulation in the treaty must be tested by the principles of such an alliance, unless in any instance terms have been used which clearly and unequivocally denoted a different intent.

The principal question consequently is: What is the nature and effect of a defensive alliance? When does the *casus fœderis* take place in relation to it?

Reason, the concurring opinions of writers, and the practice of nations will all answer: "When either of the allies is *attacked*," when "war is *made upon him*, not when he *makes war upon another*": in other words, the stipulated assistance is to be given "when our ally is engaged in a defensive, not when he is engaged in an offensive, war." This obligation to assist only in a defensive war constitutes the essential difference between an alliance which is merely defensive and one which is both offensive and

defensive. In the latter case there is an obligation to co-operate as well when the war, on the part of our ally, is of the latter, as when it is of the former, description. To affirm, therefore, that the United States are bound to assist France in the war in which she is at present engaged, will be to convert our treaty with her into an alliance offensive and defensive, contrary to the express and reiterated declarations of the instrument itself.

This assertion implies that the war in question is an offensive war on the part of France.

And so it undoubtedly is, with regard to all the Powers with whom she was at war, at the time of issuing the proclamation.

No position is better established than that the nation which first declares or actually begins a war, whatever may have been the causes leading to it, is that which makes an offensive war. Nor is there any doubt that France first declared and began the war against Austria, Prussia, Savoy, Holland, England, and Spain.

Upon this point there is apt to be some incorrectness of ideas. Those who have not examined subjects of such a nature are led to imagine that the party which commits the first injury, or gives the first provocation, is on the offensive side, though hostilities are actually begun by the other party.

But the cause or the occasion of the war, and the war itself, are things entirely distinct. It is the commencement of the war itself which decides the question, whether it be offensive or defensive. All writers on the laws of nations agree in this doctrine;

but it is most accurately laid down in the following extracts from Burlemaqui.[1]

"Neither are we to believe [says he] that he who first injures another begins by that an offensive war, and that the other who demands the satisfaction for the injury received is always on the defensive. There are a great many unjust acts which may kindle a war, and which, however, are not the war itself; as the ill treatment of a prince's ambassadors, the plundering of his subjects, etc."

"If, therefore, we take up arms to revenge such an unjust act, we commence an offensive but a just war; and the prince who has done the injury, and will not give satisfaction, makes a defensive but an unjust war."

"We must therefore affirm, in general, that the first who takes up arms, whether justly or unjustly, commences an offensive war; and he who opposes him, whether with or without reason, begins a defensive war."

France, then, being on the offensive in the present war, and our alliance with her being defensive only, it follows that the *casus fœderis*, or condition of our guaranty, cannot take place; and that the United States are free to refuse a performance of that guaranty if demanded.

Those who are disposed to justify indiscriminately every thing in the conduct of France, may reply that though the war, in point of form, may be offensive on her part, yet in point of principle it is defensive; was in each instance a mere anticipation

[1] Vol. II., book IV., chap. iii., §§ 4, 5.

of attacks meditated against her, and was justified by previous aggressions of the opposite parties.

It is believed that it would be a sufficient answer to this observation to say, that in determining the legal and positive obligations of the United States the only point of inquiry is, whether the war was in fact begun by France, or by her enemies; that all beyond this is too vague, too liable to dispute, too much matter of opinion to be a proper criterion of national conduct; that when a war breaks out between two nations, all others, in regard to the positive rights of the parties, and their positive duties towards them, are bound to consider it as equally just on both sides; that consequently in a defensive alliance, when war is made upon one of the allies, it is the duty of the other to fulfil the conditions stipulated on its part, without inquiry whether the war is rightfully begun or not; as on the other hand, when war is commenced by one of the allies, the other is exempted from the obligation to assist, however just the commencement of it may have been.

This doctrine is founded upon the utility of clear and certain rules for determining the reciprocal duties of nations, in order that as little as possible may be left to opinion, and to the subterfuges of an over-refining or unfaithful casuistry.

Some writers indeed of high authority affirm, that it is a tacit condition of every alliance, that one ally is not bound to assist the other in a war manifestly unjust. But this is questioned by other respectable authorities on the ground which has been stated.

And though the manifest injustice of the war has been affirmed by some to be a good cause for not executing the formal obligations of a treaty, I have nowhere seen it maintained that the abstract justice of a war will of itself oblige a nation to do what its formal obligations do not enjoin: if this however were not the true doctrine, an impartial examination would prove that with respect to some of the Powers, France is not blameless in the circumstances which preceded and led to the war; that if she received, she also gave, causes of offence; and that the justice of the war, on her side, is in those cases not a little problematical.

There are prudential reasons which dissuade from going largely into this examination, unless it shall be rendered necessary by the future turn of the discussion.

It will be sufficient here to notice cursorily the following facts:

France committed an aggression upon Holland, in declaring the navigation of the Scheldt free, and acting upon that declaration; contrary to treaties in which she had explicitly acknowledged, and even guaranteed, the exclusive right of Holland to the use of that river; and contrary also to the doctrines of the best writers, and the established usages of nations in such cases.

She gave a general and very serious cause of alarm and umbrage by the decree of the 19th of November, 1792, whereby the convention, in the name of the French nation, declare, that they will grant fraternity and assistance to *every people* who wish to re-

cover their liberty; and charge the executive power to send the necessary orders to the generals to give assistance to such people, and to defend those citizens who have been, or who may be, vexed for the cause of liberty; which decree was ordered to be printed in all languages.

This very extraordinary decree amounted exactly to what France herself had most complained of—an interference by one nation in the internal government of another.

When a nation has actually come to a resolution to throw off a yoke, under which it may have groaned, and to assert its liberties, it is justifiable and meritorious in another, to afford assistance to the one which has been oppressed, and is in the act of liberating itself; but it is not warrantable for any nation beforehand, to hold out a general invitation to insurrection and revolution, by promising to assist every people who may wish to recover their liberty, and to defend those citizens of every country who have been, or who may be, vexed for the cause of liberty; still less to commit to the generals of its armies, the discretionary power of judging when the citizens of a foreign country have been vexed for the cause of liberty by their own government.

For Vatel justly observes, as a consequence of the liberty and independence of nations, "that it does not belong to any foreign Power to take cognizance of the administration of a sovereign of another country, to set himself up as a judge of his conduct, or to oblige him to alter it."

It had a natural tendency to disturb the tranquil-

lity of nations, and to excite everywhere fermentation and revolt; it therefore justified neutral Powers, who were in a situation to be affected by it, in taking measures to repress the spirit by which it had been dictated.

But the principle of that decree received a more particular application to Great Britain, by some subsequent circumstances.

Among the proofs of this are two answers, which were given by the President of the National Convention, at a public sitting on the 28th of November, to two different addresses: one presented by a deputation from "The Society for Constitutional Information in London," the other by a deputation of English and Irish citizens at Paris.

The following are extracts from these answers:

"The shades of Penn, of Hampden, and of Sidney hover over your heads; and the moment, without doubt, approaches, in which the French will bring congratulations to the National Convention of Great Britain."

"Nature and principles draw towards us England, Scotland, and Ireland. Let the cries of friendship resound through the TWO REPUBLICS."—"Principles are waging war against tyranny, which will fall under the blows of philosophy. ROYALTY in Europe is either destroyed or on the point of perishing, on the ruins of feudality; and the declaration of rights placed by the side of thrones, is a devouring fire which will consume them."—"Worthy Republicans, etc."

Declarations of this sort cannot but be viewed as

a direct application of the principle of the decree to Great Britain, and as an open patronage of a revolution in that country; a conduct which, proceeding from the head of the body that governed France, in the presence and on behalf of that body, was unquestionably an offence and injury to the nation to which it related.

The decree of the 15th of November is a further cause of offence to all the governments of Europe. By that decree, "the French nation declares, that it will treat as enemies the people who, refusing or renouncing liberty and equality, are desirous of preserving their prince and privileged castes, or of entering into an accommodation with them, etc." This decree was little short of a declaration of war against all nations having princes and privileged classes.

The formal and definitive annexation to France of the territories over which her arms had temporarily prevailed, is another violation of just and moderate principles, into which the convention was betrayed by an intemperate zeal, if not by a culpable ambition; and of a nature to justify the jealousy and ill-will of every neighboring state.

The laws of nations give to a Power at war nothing more than a usufructuary or possessory right to the territories which it acquires; suspending the absolute property and dominion till a treaty of peace, or something equivalent, shall have ceded or relinquished the conquered territory to the conqueror. This rule is one of primary importance to the tranquillity and security of nations — facilitating an

adjustment of their quarrels and the preservation of ancient limits.

But France, by incorporating with herself in several instances the territories she had acquired, violated that rule, and multiplied infinitely the obstacles to peace and accommodation. The doctrine that a nation cannot consent to its own dismemberment but in a case of extreme necessity, immediately attached itself to all the conquered territories; while the progressive augmentation of the dominions of the most powerful empire in Europe, on a principle not of temporary possession but of permanent acquisition, threatened the independence of all other countries, and gave to neighboring neutral Powers the justest cause of discontent and apprehension. It is a principle well agreed, and founded on substantial reasons, that whenever a particular state adopts maxims of conduct contrary to those generally established among nations, calculated to interrupt their tranquillity and to expose their safety, they may justifiably make common cause to resist and control the state which manifests a disposition so suspicious and exceptionable.

Whatever partiality may be entertained for the general object of the French Revolution, it is impossible for any well-informed or sober-minded man not to condemn the proceedings which have been stated, as repugnant to the rights of nations, to the true principles of liberty, to the freedom of opinion of mankind; or not to acknowledge as a consequence of this, that the justice of the war on the part of France, with regard to some of the Powers with

which she is engaged, is from those causes questionable enough to free the United States from all embarrassment on that score, if indeed it be at all incumbent upon them to go into the inquiry.

The policy of a defensive alliance is so essentially distinct from that of an offensive one, that it is every way important not to confound their effects. The first kind has in view the prudent object of mutual defence, when either of the allies is involuntarily forced into a war by the attack of some third Power. The latter subjects the peace of each ally to the will of the other, and obliges each to partake in the other's wars of policy and interest, as well as in those of safety and defence. To preserve their boundaries distinct, it is necessary that each kind should be governed by plain and obvious rules.

This would not be the case if, instead of taking as a guide the simple fact of who began the war, it was necessary to travel into metaphysical niceties about the justice or injustice of the causes which led to it.

Inasmuch also as the not furnishing a stipulated succor, when it is due, is itself a cause of war, it is very requisite that there should be some palpable criterion for ascertaining when it is due. This criterion, as before observed, in a defensive alliance is the commencement, or not, of the war by our ally as a mere matter of fact.

Other topics serving to illustrate the position that the United States are not bound to execute the clause of guaranty, are reserved for another paper.

PACIFICUS.

NO. III

July 6, 1793.

France, at the time of issuing the proclamation, was engaged in war with a considerable part of Europe, and likely to be embroiled with almost all the rest, without a single ally in that quarter of the globe.

In such a situation, it is evident, that however she may be able to defend herself at home, of which her factions and internal agitations furnish the only serious doubt, she cannot make external efforts in any degree proportioned to those which can be made against her.

This state of things alone discharges the United States from an obligation to embark in her quarrel.

It is known that we are wholly destitute of naval force. France, with all the great maritime powers united against her, is unable to supply this deficiency. She cannot afford us that species of co-operation which is necessary to render our efforts useful to her, and to prevent our experiencing the destruction of our trade, and the most calamitous inconveniences in other respects.

Our guaranty does not look to France herself. It does not relate to her immediate defence, but to the defence and preservation of her American colonies; objects of which she might be deprived, and yet remain a great, a powerful, and a happy nation.

In the actual situation of this country, and in relation to a matter of only secondary importance to France, it may fairly be maintained that an ability in her to supply in a competent degree, our de-

ficiency of naval force, is a condition of our obligation to perform the guaranty on our part.

Had the United States a powerful marine, or could they command one in time, this reasoning would not be solid; but circumstanced as they are, it is presumed to be well founded.

There would be no proportion between the mischiefs and perils to which the United States would expose themselves, by embarking in the war, and the benefit which the nature of their stipulation aims at securing to France, or that which it would be in their power actually to render her by becoming a party.

This disproportion would be a valid reason for not executing the guaranty. All contracts are to receive a reasonable construction. Self-preservation is the first duty of a nation; and though in the performance of stipulations relating to war, good faith requires that its ordinary hazards should be fairly met, because they are directly contemplated by such stipulations, yet it does not require that extraordinary and extreme hazards should be run, especially where the object to be gained or secured is only a partial or particular interest of the ally, for whom they are to be encountered.

As in the present instance, good faith does not require that the United States should put in jeopardy their essential interests, perhaps their very existence, in one of the most unequal contests in which a nation could be engaged, to secure to France—what? Her West India islands and other less important possessions in America. For it is always to be remembered, that the stipulations of the United States do, in no

event, reach beyond this point. If they were, upon the strength of their guaranty, to engage in the war, and could make any arrangement with the belligerent Powers, for securing to France those islands and those possessions, they would be at perfect liberty instantly to withdraw. They would not be bound to prosecute the war one moment longer.

They are under no obligation in any event, as far as the faith of treaties is concerned, to assist France in defence of her liberty; a topic on which so much has been said, so very little to the purpose, as it regards the present question.

The contest in which the United States would plunge themselves, were they to take part with France, would possibly be still more unequal than that in which France herself is engaged. With the possessions of Great Britain and Spain on both flanks, the numerous Indian tribes under the influence and direction of those Powers, along our whole interior frontier, with a long extended sea-coast, with no maritime force of our own, and with the maritime force of all Europe against us, with no fortifications whatever, and with a population not exceeding four millions; it is impossible to imagine a more unequal contest than that in which we should be involved in the case supposed. From such a contest we are dissuaded by the most cogent motives of self-preservation, no less than of interest.

We may learn from Vatel, one of the best writers on the laws of nations, that "if a state which has promised succors finds itself unable to furnish them, its very inability is its exemption; and if the furnish-

ing the succors would expose it to an evident danger, this also is a lawful dispensation. The case would render the treaty pernicious to the state, and therefore not obligatory. But this applies to an imminent danger threatening the safety of the state; the case of such a danger is tacitly and necessarily reserved in every treaty." [1]

If too, as no sensible and candid man will deny, the extent of the present combination against France is in a degree to be ascribed to imprudences on her part, the exemption to the United States is still more manifest and complete. No country is bound to partake in hazards of the most critical kind, which may have been produced or promoted by the indiscretion and intemperance of another. This is an obvious dictate of reason, with which the common sense and common practice of mankind coincide.

To the foregoing considerations, it may perhaps be added with no small degree of force, that military stipulations in national treaties contemplate only the ordinary case of foreign war, and are irrelative to the contests which grow out of revolutions of government, unless where they have express reference to a revolution begun, or where there is a guaranty of the existing constitution of a nation, or where there is a personal alliance for the defence of a prince and his family.[2]

The revolution in France is the primitive source of the war in which she is engaged. The restoration of the monarchy is the avowed object of some of her

[1] See Book III., chap. vi., § 92.
[2] Puffendorf, Book VIII., chap. ix., § 9.

enemies, and the implied one of all. That question, then, is essentially involved in the principle of the war, a question certainly never in the contemplation of the government with which our treaty was made, and it may thence be fairly inferred, never intended to be embraced by it.

The inference is, that the United States fulfilled the utmost that could be claimed by the nation of France, when they so far respected its decision as to recognize the newly constituted authorities, giving operation to the treaty of alliance for future occasions, but considering the present war as a tacit exception. Perhaps, too, this exception is in other respects due to the circumstances under which the engagements between the two countries were contracted. It is impossible, prejudice apart, not to perceive a delicate embarrassment between the theory and fact of our political relations to France.

On these grounds, also, as well as that of the present war being offensive on the side of France, the United States have valid and honorable pleas to offer against the execution of the guaranty if it should be claimed by France; and the President was in every view fully justified in pronouncing that the duty and interest of the United States dictated a neutrality in the war. PACIFICUS.

NO. IV

July 10, 1793.

A third objection to the proclamation is, that it is inconsistent with the gratitude due to France for the services rendered to us in our revolution.

Those who make this objection disavow, at the same time, all intention to maintain the position that the United States ought to take part in the war. They profess to be friends to our remaining at peace. What then do they mean by the objection?

If it be no breach of gratitude to refrain from joining France in the war, how can it be a breach of gratitude to declare that such is our disposition and intention?

The two positions are at variance with each other; and the true inference is, either that those who make the objection really wish to engage this country in the war, or that they seek a pretext for censuring the conduct of the Chief Magistrate, for some purpose very different from the public good.

They endeavor in vain to elude this inference by saying that the proclamation places France upon an equal footing with her enemies, while our treaties require distinctions in her favor, and our relative situation would dictate kind offices to her, which ought not to be granted to her adversaries.

They are not ignorant that the proclamation is reconcilable with both those objects, as far as they have any foundation in truth or propriety.

It has been shown that the promise of "a friendly and impartial conduct" toward all the belligerent Powers is not incompatible with the performance of any stipulations in our treaties, which would not include our becoming an associate in the war; and it has been observed that the conduct of the executive, in regard to the seventeenth and twenty-second articles of the treaty of commerce, is an unequivocal

comment upon the terms. They were, indeed, naturally to be understood, with the exception of those matters of positive compact, which would not amount to taking part in the war; for a nation then observes a friendly and impartial conduct toward two contending Powers, when it only performs to one of them what it is obliged to do by stipulations and antecedent treaties, which do not constitute a participation in the war.

Neither do those expressions imply that the United States will not exercise their discretion in doing kind offices to some of the parties, without extending them to others, so long as they have no relation to war; for kind offices of that description may, consistently with neutrality, be shown to one party and refused to another.

If the objectors mean that the United States ought to favor France, in things relating to war, and where they are not bound to do it by treaty, they must in this case also abandon their pretension of being friends to peace. For such a conduct would be a violation of neutrality, which could not fail to produce war.

It follows then, that the proclamation is reconcilable with all that those who censure it contend for; taking them upon their own ground, that nothing is to be done incompatible with the preservation of peace.

But though this would be a sufficient answer to the objection under consideration, yet it may not be without use to indulge some reflections on this very favorite topic of gratitude to France, since it is at this

shrine that we are continually invited to sacrifice the true interests of the country; as if "all for love, and the world well lost," were a fundamental maxim in politics.

Faith and justice between nations are virtues of a nature the most necessary and sacred. They cannot be too strongly inculcated, nor too highly respected. Their obligations are absolute, their utility unquestionable; they relate to objects which, with probity and sincerity, generally admit of being brought within clear and intelligible rules.

But the same cannot be said of gratitude. It is not very often that between nations it can be pronounced with certainty that there exists a solid foundation for the sentiment; and how far it can justifiably be permitted to operate, is always a question of still greater difficulty.

The basis of gratitude is a benefit received or intended, which there was no right to claim, originating in a regard to the interest or advantage of the party on whom the benefit is, or is meant to be, conferred. If a service is rendered from views relative to the immediate interest of the party who performs it, and is productive of reciprocal advantages, there seems scarcely, in such a case, to be an adequate basis for a sentiment like that of gratitude.

The effect at least would be wholly disproportioned to the cause, if such a service ought to beget more than a disposition to render in turn a correspondent good office, founded on mutual interest and reciprocal advantage. But gratitude would require much more than this: it would exact to a certain

extent even a sacrifice of the interest of the party obliged to the service or benefit of the one by whom the obligation had been conferred.

Between individuals, occasion is not unfrequently given for the exercise of gratitude. Instances of conferring benefits from kind and benevolent dispositions or feelings toward the person benefited, without any other interest on the part of the person who renders the service, than the pleasure of doing a good action, occur every day among individuals. But among nations they perhaps never occur. It may be affirmed as a general principle, that the predominant motive of good offices from one nation to another, is the interest or advantage of the nation which performs them.

Indeed, the rule of morality in this respect is not precisely the same between nations as between individuals. The duty of making its own welfare the guide of its actions, is much stronger upon the former than upon the latter; in proportion to the greater magnitude and importance of national compared with individual happiness, and to the greater permanency of the effects of national than of individual conduct. Existing millions, and for the most part future generations, are concerned in the present measures of a government; while the consequences of the private actions of an individual ordinarily terminate with himself, or are circumscribed within a narrow compass.

Whence it follows that an individual may, on numerous occasions, meritoriously indulge the emotions of generosity and benevolence, not only without an

eye to, but even at the expense of, his own interest. But a government can rarely, if at all, be justifiable in pursuing a similar course; and, if it does so, ought to confine itself within much stricter bounds.[1] Good offices which are indifferent to the interest of a nation performing them, or which are compensated by the existence or expectation of some reasonable equivalent, or which produce an essential good to the nation to which they are rendered, without real detriment to the affairs of the benefactors, prescribe perhaps the limits of national generosity or benevolence.

It is not here meant to recommend a policy absolutely selfish or interested in nations; but to show, that a policy regulated by their own interest, as far as justice and good faith permit, is, and ought to be, their prevailing one; and that either to ascribe to them a different principle of action, or to deduce, from the supposition of it, arguments for a self-denying and self-sacrificing gratitude on the part of a nation which may have received from another good offices, is to misrepresent or misconceive what usually are, and ought to be, the springs of national conduct.

These general reflections will be auxiliary to a just estimate of our real situation with regard to France, of which a closer view will be taken in a succeeding paper. PACIFICUS.

[1] This conclusion derives confirmation from the reflection, that under every form of government rulers are only trustees for the happiness and interest of their nation, and cannot, consistently with their trust, follow the suggestions of kindness or humanity toward others, to the prejudice of their constituents.

NO. V

July 13, 1793.

France, the rival, time immemorial, of Great Britain, had, in the course of the war which ended in 1763, suffered from the successful arms of the latter the severest losses and the most mortifying defeats. Britain from that moment had acquired an ascendant in the affairs of Europe, and in the commerce of the world, too decided and too humiliating to be endured without extreme impatience, and an eager desire of finding a favorable opportunity to destroy it, and to repair the breach which had been made in the national glory. The animosity of wounded pride conspired with calculations of interest to give a keen edge to that impatience, and to that desire.

The American revolution offered the occasion. It early attracted the notice of France, though with extreme circumspection. As far as countenance and aid may be presumed to have been given prior to the epoch of the acknowledgment of our independence, it will be no unkind derogation to assert, that they were marked neither with liberality nor with vigor; that they wore the appearance rather of a desire to keep alive disturbances which might embarrass a rival, than of a serious design to assist a revolution, or a serious expectation that it could be effected.

The victories of Saratoga, the capture of an army, which went a great way toward deciding the issue of the contest, decided also the hesitations of France. They established in the government of that country a confidence of our ability to accomplish our purpose,

and, as a consequence of it, produced the treaties of alliance and commerce.

It is impossible to see in all this any thing more than the conduct of a jealous competitor, embracing a most promising opportunity to repress the pride and diminish the power of a dangerous rival, by seconding a successful resistance to its authority, with the object of lopping off a valuable portion of its dominions. The dismemberment of this country from Great Britain was an obvious and a very important interest of France. It cannot be doubted that it was both the determining motive and an adequate compensation for the assistance afforded to us.

Men of sense, in this country, derived encouragement to the part which their zeal for liberty prompted them to take in our revolution, from the probability of the co-operation of France and Spain. It will be remembered that this argument was used in the publications of the day; but upon what was it bottomed? Upon the known competition between those nations and Great Britain, upon their evident interest to reduce her power and circumscribe her empire; not certainly from motives of regard to our interest, or of attachment to our cause. Whoever should have alleged the latter, as the grounds of the expectation held out, would have been then justly considered as a visionary or a deceiver. And whoever shall now ascribe to such motives the aid which we did receive, would not deserve to be viewed in a better light.

The inference from these facts is not obscure. Aid

and co-operation, founded upon a great interest, pursued and obtained by the party rendering them, is not a proper stock upon which to engraft that enthusiastic gratitude which is claimed from us by those who love France more than the United States.

This view of the subject, extorted by the extravagancy of such a claim, is not meant to disparage the just pretensions of France to our good-will. Though neither in the motives to the succors which she furnished, nor in their extent (considering how powerfully the point of honor, in such war, reinforced the considerations of interest when she was once engaged), can be found a sufficient basis for that gratitude which is the theme of so much declamation, yet we shall find, in the manner of affording them, just cause for our esteem and friendship.

France did not attempt, in the first instance, to take advantage of our situation to extort from us any humiliating or injurious concessions as the price of her assistance; nor afterwards, in the progress of the war, to impose hard terms as the condition of particular aids.

Though this course was certainly dictated by policy, yet it was a magnanimous policy, such as always constitutes a title to the approbation and esteem of mankind, and a claim to the friendship and acknowledgment of the party in whose favor it is practised.

But these sentiments are satisfied on the part of the nation, when they produce sincere wishes for the happiness of the party from whom it has experienced such conduct, and a cordial disposition to render all

good and friendly offices which can be rendered without prejudice to its own solid and permanent interests.

To ask of a nation so situated, to make a sacrifice of substantial interest; to expose itself to the jealousy, ill-will, or resentment of the rest of the world; to hazard, in an eminent degree, its own safety for the benefit of the party who may have observed towards it the conduct which has been described, would be to ask more than the nature of the case demands, more than the fundamental maxims of society authorize, more than the dictates of sound reason justify.

A question has arisen, with regard to the proper object of that gratitude which is so much insisted upon: whether it be the unfortunate prince by whom the assistance received was given, or the nation of whom he was the chief or the organ? It is extremely interesting to the national justice, to form right conceptions on this point.

The arguments which support the latter idea are as follows:

"Louis the XVI. was but the constitutional agent of the French people. He acted for and on behalf of the nation; it was with their money and their blood he supported our cause. It is to them, therefore, not to him, that our obligations are due. Louis the XVI., in taking our part, was no doubt actuated by state policy. An absolute prince could not love liberty. But the people of France patronized our cause with zeal, from sympathy in its object. The people, therefore, not its monarch, are entitled to our sympathy."

This reasoning may be ingenious, but it is not founded in nature or fact.

Louis the XVI., though no more than the constitutional agent of the nation, had at the time the sole power of managing its affairs, the legal right of directing its will and its force. It belonged to him to assist us, or not, without consulting the nation; and he did assist without such consultation. His will alone was active; that of the nation passive. If there was kindness in the decision, demanding a return of good-will, it was the kindness of Louis the XVI.—his heart was the depository of the sentiment. Let the genuine voice of nature, then, unperverted by political subtleties, pronounce whether the acknowledgment, which may be due for that kindness can be equitably transferred from him to others who had no share in the decision; whether the principle of gratitude ought to determine us to behold with indifference his misfortunes, and with satisfaction the triumphs of his foes.

The doctrine, that the prince is the organ of his nation, is conclusive to enforce the obligations of good faith between two states—in other words, the observance of duties stipulated in treaties for national purposes; and it will even suffice to continue to a nation a claim to the friendship and good-will of another, resulting from friendly offices done by its prince; but it would be to carry the principle much too far, and to render it infinitely too artificial, to attribute to it the effect of transferring such a claim from the prince to the nation, by way of opposition and contrast. Friendship, good-will, gratitude for

favors received, have so inseparable a reference to the motives with which, and to the persons by whom, they were rendered, as to be incapable of being transferred to another at his expense.

But Louis the XVI., it is said, acted from reasons of state, without regard to our cause, while the people of France patronized it with zeal and attachment.

As far as the assertion with regard to the monarch may be well founded, and is an objection to our gratitude to him, it destroys the whole fabric of gratitude to France. For our gratitude is, and must be, relative to the services performed. The nation can only claim it on the score of their having been rendered by their agent with their means. If the views with which he performs them divested them of the merit which ought to inspire gratitude, none is due. The nation no more than their agent can claim it.

With regard to the individual good wishes of the citizens of France, as they did not produce the services rendered to us as a nation, they can be no foundation for national gratitude. They can only call for a reciprocation of individual good wishes. They cannot form the basis of public obligation.

But the assertion takes more for granted than there is reason to believe true.

Louis the XVI. no doubt took part in our contest from reasons of state; but Louis the XVI. was a man, humane and kind-hearted. The acts of his early youth had entitled him to this character. It is natural for a man of this disposition to become interested in the cause of those whom he protects or

aids; and if the concurrent testimony of the period may be credited, there was no man in France more personally friendly to the cause of this country than Louis XVI. I am much misinformed if repeated declarations of the venerable Franklin did not attest this fact.

It is a just tribute to the people of France to admit that they manifested a lively interest in the cause of America; but while motives are scanned, who can say how much of it is to be ascribed to the antipathy which they bore to their rival neighbor—how much to their sympathy in the object of our pursuit? It is certain that the love of liberty was not a national sentiment in France when a zeal for our cause first appeared among that people.

There is reason to believe, too, that the attachment to our cause, which ultimately became very extensive, if not general, did not originate with the mass of the French people. It began with the circles more immediately connected with the court, and was thence diffused through the nation.

This observation, besides its tendency to rectify ideas which are calculated to give a false current to the public feeling, may serve to check the spirit of illiberal invective, which has been wantonly indulged against those distinguished friends of America, who, though the authors of the French revolution, have fallen victims to it; because their principles would not permit them to go the whole length of an entire subversion of the monarchy.

The preachers of gratitude are not ashamed to brand Louis the XVI. as a tyrant, La Fayette as a

traitor. But how can we wonder at this, when they insinuate a distrust even of a——!!!

In urging the friendly disposition to our cause, manifested by the people of France, as a motive to our gratitude towards that people, it ought not to be forgotten, that those dispositions were not confined to the inhabitants of that country. They were eminently shared by the people of the United Provinces, produced to us valuable pecuniary aids from their citizens, and eventually involved them in the war on the same side with us. It may be added, too, that here the patronage of our cause emphatically began with the mass of the community, not originating as in France with the government, but finally implicating the government in the consequences.

Our cause had also numerous friends in other countries—even in that with which we were at war. Conducted with prudence, moderation, justice, and humanity, it may be said to have been a popular cause among mankind, conciliating the countenance of princes and the affection of nations.

The dispositions of the individual citizens of France can therefore in no sense be urged, as constituting a peculiar claim to our gratitude. As far as there is foundation for it, it must be referred to the services rendered to us, and, in the first instance, to the unfortunate monarch that rendered them. This is the conclusion of nature and reason.

PACIFICUS.

NO. VI

July 17, 1793.

The very men who not long since, with a holy zeal, would have been glad to make an *auto da fé* of any one who should have presumed to assign bounds to our obligations to Louis the XVI., are now ready to consign to the flames those who venture even to think that he died a proper object of our sympathy or regret. The greatest pains are taken to excite against him our detestation. His supposed perjuries and crimes are sounded in the public ear, with all the exaggerations of intemperate declaiming. All the unproved and contradicted allegations which have been brought against him are taken for granted, as the oracles of truth, on no better grounds than the mere general presumptions: that he could not have been a friend to a revolution which stripped him of so much power; that it is not likely the convention would have pronounced him guilty, and consigned him to so ignominious a fate, if he had been really innocent.

It is possible that time may disclose facts and proofs which will substantiate the guilt imputed to Louis; but these facts and proofs have not yet been authenticated to the world, and justice admonishes us to wait for their production and authentication.

Those who have most closely attended to the course of the transaction find least cause to be convinced of the criminality of the deceased monarch. While his counsel, whose characters give weight to their assertions, with an air of conscious truth, boldly appeal to facts and proofs, in the knowledge

and possession of the convention, for the refutation of the charges brought against him, the members of that body, in all the debates upon the subject which have reached this country, either directly from France, or circuitously through England, appear to have contented themselves with assuming the existence of the facts charged, and inferring from them a criminality which, after the abolition of the royalty, they were interested to establish.

The presumption of guilt drawn from the suggestions which have been stated is more than counterbalanced by an opposite one, which is too obvious not to have occurred to many, though I do not recollect yet to have met with it in print. It is this:

If the convention had possessed clear evidence of the guilt of Louis, they would have promulgated it to the world in an authentic and unquestionable shape. Respect for the opinion of mankind, regard for their own character, the interest of their cause, made this an indispensable duty; nor can the omission be satisfactorily ascribed to any other reason than the want of such evidence.

The inference is, that the melancholy catastrophe of Louis XVI. was the result of a supposed political expediency, rather than of real criminality.

In a case so circumstanced, does it, can it consist with our justice or our humanity, to partake in the angry and vindictive passions which it is endeavored to excite against the unfortunate monarch? Was it a crime in him to have been born a prince? Could this circumstance forfeit his title to the commiseration due to his misfortunes as a man?

Would gratitude dictate to a people, situated as are the people of this country, to lend their aid to extend to the son the misfortunes of the father? Should we not be more certain of violating no obligation of that kind, and of not implicating the delicacy of our national character, by taking no part in the contest, than by throwing our weight into either scale?

Would not a just estimate of the origin and progress of our relations to France, viewed with reference to the mere question of gratitude, lead us to this result—that we ought not to take part against the son and successor of a father, on whose sole will depended the assistance which we received; that we ought not to take part with him against the nation, whose blood and whose treasure had been, in the hands of the father, the means of that assistance?

But we are sometimes told, by way of answer, that the cause of France is the cause of liberty; and that we are bound to assist the nation on the score of their being engaged in the defence of that cause. How far this idea ought to carry us, will be the subject of future examination.

It is only necessary here to observe that it presents a question essentially different from that which has been in discussion. If we are bound to assist the French nation, on the principle of their being embarked in the defence of liberty, this is a consideration altogether foreign to that of gratitude. Gratitude has reference only to kind offices received. The obligation to assist the cause of liberty must be deduced from the merits of that cause and from the interest we have in its support. It is possible that

the benefactor may be on one side; the defenders and supporters of liberty on the other. Gratitude may point one way, the love of liberty another. It is therefore important to just conclusions, not to confound the two things.

A sentiment of justice, more than the importance of the question itself, has led to so particular a discussion respecting the proper object of whatever acknowledgment may be due from the United States, for the aid which they received from France during their own revolution.

The extent of the obligation which it may impose is by far the most interesting inquiry. And though it is presumed, that enough has been already said to evince, that it does in no degree require us to embark in the war, yet there is another and a very simple view of the subject, which is too convincing to be omitted.

The assistance derived from France was afforded by a great and powerful nation, possessing numerous armies, a respectable fleet, and the means of rendering it a match for the force to be encountered. The position of Europe was favorable to the enterprise; a general disposition prevailing to see the power of Britain abridged. The co-operation of Spain was very much a matter of course, and the probability of other Powers becoming engaged on the same side not remote. Great Britain was alone, and likely to continue so; France had a great and persuasive interest in the separation of this country from her. In this situation, with much to hope and little to fear, she took part in our quarrel.

France is at this time singly engaged with the greatest part of Europe, including all the first-rate Powers except one; and in danger of being engaged with the rest. To use the emphatic language of a member of the national convention, she has but one enemy, and that is all Europe. Her internal affairs are, without doubt, in serious disorder; her navy comparatively inconsiderable. The United States are a young nation: their population, though rapidly increasing, still small; their resources, though growing, not great; without armies, without fleets; capable, from the nature of the country and the spirit of its inhabitants, of immense exertions for self-defence, but little capable of those external efforts which could materially serve the cause of France. So far from having any direct interest in going to war, they have the strongest motives of interest to avoid it. By embarking with France in the war, they would have incomparably more to apprehend than to hope.

This contrast of situations and inducements is alone a conclusive demonstration, that the United States are not under an obligation, from gratitude, to join France in the war. The utter disparity between the circumstances of the service to be rendered, and of the service received, proves that the one cannot be an adequate basis of obligation for the other. There would be a manifest want of equality, and consequently of reciprocity.

But complete justice would not be done to this question of gratitude, were no notice to be taken of the address which has appeared in the public papers

(the authenticity of which has not been impeached), from the convention of France to the United States, announcing the appointment of the present Minister Plenipotentiary. In that address the convention informs us, that "the support which the ancient French court had afforded the United States to recover their independence, was only the fruit of a base speculation; and that their glory offended its ambitious views, and the ambassadors of France bore the criminal orders of stopping the career of their prosperity."

If this information is to be admitted in the full force of the terms, it is very fatal to the claim of gratitude toward France. An observation similar to one made in a former paper occurs here. If the organ of the nation, on whose will the aid which was given depended, acted not only from motives irrelative to our advantage, but from unworthy motives, or, as is alleged, from a base speculation; if afterward he displayed a temper hostile to the confirmation of our security and prosperity, he acquired no title to our gratitude in the first instance, or he forfeited it in the second. And the people of France, who can only demand it in virtue of the conduct of their agent, must, together with him, renounce the pretension. It is an obvious principle, that if a nation can claim merit from the good deeds of its sovereign, it must answer for the demerit of his misdeeds.

But some deductions are to be made from the suggestions in the address of the convention, on account of the motives which evidently dictated the

communication. Their zeal to alienate the good-will of this country from the late monarch, and to increase the odium of the French nation against the monarchy, which was so ardent as to make them overlook the tendency of their communication to deprive their votaries among us of the plea of gratitude, may justly be suspected of exaggeration.

The truth probably is, that the base speculation charged, amounts to nothing more than that the government of France, in affording us assistance, was actuated by the motives which have been attributed to it, namely, the desire of promoting the interest of France, by lessening the power of Great Britain, and opening a new channel of commerce to herself; that the orders said to have been given to the ambassadors of France, to stop the career of our prosperity, are resolvable into a speculative jealousy of the ministers of the day, lest the United States, by becoming as powerful and great as they are capable of being under an efficient government, might prove formidable to the European possessions in America. With these qualifications, the address offers no new discovery to the intelligent and unbiassed friends of their country. They knew long ago, that the interest of France had been the governing motive of the aid afforded; and they saw clearly enough in the conversation and conduct of her agents, while the present Constitution of the United States was under consideration, that the government, of which they were the instruments, would have preferred our remaining under the old form. They perceived, also, that these views had their effect upon some of the devoted

partisans of France among ourselves; as they now perceive, that the same characters are embodying, with all the aid they can obtain, under the same banner, to resist the operation of that government of which they withstood the establishment.

All this was and is seen, and the body of the people of America are too discerning to be long in the dark about it; too wise to have been misled by foreign or domestic machinations, they adopted a Constitution which was necessary to their safety and to their happiness; too wise still to be ensnared by the same machinations, they will support the government they have established, and will take care of their own peace, in spite of the insidious efforts which are employed to detach them from the one and to disturb the other.

The information which the address of the convention contains ought to serve as an instructive lesson to the people of this country. It ought to teach us not to overrate foreign friendships, and to be upon our guard against foreign attachments. The former will generally be found hollow and delusive; the latter will have a natural tendency to lead us aside from our own true interest, and to make us the dupes of foreign influence. Both serve to introduce a principle of action which in its effects, if the expression may be allowed, is anti-national. Foreign influence is truly the Grecian horse to a republic. We cannot be too careful to exclude its entrance. Nor ought we to imagine that it can only make its approaches in the gross form of direct bribery. It is then most dangerous when it comes under the patronage of our

passions, under the auspices of national prejudice and partiality.

I trust the morals of this country are yet too good to leave much to be apprehended on the score of bribery. Caresses, condescensions, flattery, in unison with our prepossessions, are infinitely more to be feared; and as far as there is opportunity for corruption, it is to be remembered that one foreign Power can employ this resource as well as another, and that the effect must be much greater when it is combined with other means of influence than where it stands alone.

PACIFICUS.

NO. VII

July 20, 1793.

The remaining objection to the proclamation of neutrality still to be discussed is, that it was out of time and unnecessary.

To give color to this objection it is asked, why did not the proclamation appear when the war commenced with Austria and Prussia? Why was it forborne till Great Britain, Holland, and Spain became engaged? Why did not the government wait till the arrival at Philadelphia of the minister of the French Republic? Why did it volunteer a declaration not required of it by any of the belligerent parties?

To most of these questions, solid answers have already appeared in the public prints; little more can be done than to repeat and enforce them.

Austria and Prussia are not maritime powers. Contraventions of neutrality as against them were

not likely to take place to any extent, or in a shape that would attract their notice. It would, therefore, have been useless, if not ridiculous, to have made a formal declaration on the subject, while they were the only parties opposed to France.

But the reverse of this is the case with regard to Spain, Holland, and England. These are all commercial and maritime nations. It was to be expected that their attentions would be immediately drawn toward the United States with sensibility, and even with jealousy. It was to be feared that some of our citizens might be tempted by the prospect of gain to go into measures which would injure them, and hazard the peace of the country. Attacks by some of these Powers upon the possessions of France in America were to be looked for as a matter of course. While the views of the United States as to that particular were problematical, they would naturally consider us as a Power that might become their enemy. This they would have been the more apt to do on account of these public demonstrations of attachment to the cause of France, of which there has been so prodigal a display. Jealousy, everybody knows, especially if sharpened by resentment, is apt to lead to ill treatment; ill treatment, to hostility.

In proportion to the probability of our being regarded with a suspicious, and consequently an unfriendly, eye by the Powers at war with France; in proportion to the danger of imprudences being committed by any of our citizens, which might occasion a rupture with them, the policy on the part of the government, of removing all doubt as to its own

disposition, and of deciding the condition of the United States, in the view of the parties concerned, became obvious and urgent.

Were the United States now, what, if we do not rashly throw away the advantages we possess, they may expect to be in fifteen or twenty years, there would have been more room for an insinuation which has been thrown out, namely, that they ought to have secured to themselves some advantage as the consideration of their neutrality,—an idea, however, the justice and magnanimity of which cannot be commended. But in their present situation, with their present strength and resources, an attempt of that kind could have only served to display pretensions at once excessive and unprincipled. The chance of obtaining any collateral advantage, if such a chance there was, by leaving doubt of their intentions as to peace or war, could not wisely have been put, for a single instant, in competition with the tendency of a contrary conduct to secure our peace.

The conduciveness of the declaration of neutrality to that end was not the only recommendation to the adoption of the measure. It was of great importance that our own citizens should understand, as soon as possible, the opinion which the government entertained of the nature of our relations to the warring parties, and of the propriety or expediency of our taking a side or remaining neuter. The arrangements of our merchants could not but be very differently affected by the one hypothesis or the other; and it would necessarily have been very detrimental and perplexing to them to have been left in uncertainty.

It is not requisite to say how much our agriculture and other interests would have been likely to have suffered by embarrassments to our merchants.

The idea of its having been incumbent on the government to delay the measure for the arrival of the minister of the French republic, is as absurd as it is humiliating. Did the executive stand in need of the logic of a foreign agent to enlighten it as to the duties or interests of the nation? Or was it bound to ask his consent to a step which appeared to itself consistent with the former, and conducive to the latter?

The sense of our treaties was to be learnt from the instruments themselves. It was not difficult to pronounce beforehand that we had a greater interest in the preservation of peace, than in any advantages with which France might tempt our participation in the war. Commercial privileges were all that she could offer of real value in our estimation, and a *carte blanche* on this head would have been an inadequate recompense for renouncing peace, and committing ourselves voluntarily to the chances of so precarious and perilous a war. Besides, if the privileges which might have been conceded were not founded in a real, permanent, mutual interest, of what value would be the treaty that should concede them? Ought not the calculation, in such case, to be upon a speedy resumption of them, with perhaps a quarrel as the pretext? On the other hand, may we not trust that commercial privileges, which are truly founded in mutual interest, will grow out of that interest, without the necessity of giving a premium for them at the expense of our peace?

To what purpose, then, was the executive to have waited for the arrival of the minister? Was it to give opportunity to contentious discussions, to intriguing machinations, to the clamors of a faction won to a foreign interest?

Whether the declaration of neutrality issued upon or without the requisition of any of the belligerent Powers, can only be known to their respective ministers, and to the proper officers of our government. But if it be true that it issued without any such requisition, it is an additional indication of the wisdom of the measure.

It is of much importance to the end of preserving peace, that the belligerent nations should be thoroughly convinced of the sincerity of our intentions to observe the neutrality we profess; and it cannot fail to have weight in producing this conviction, that the declaration of it was a spontaneous act, not stimulated by any requisition on the part of either of them, but proceeding purely from our own view of our duty and interest.

It was not surely necessary for the government to wait for such a requisition, while there were advantages, and no disadvantages, in anticipation. The benefit of an early notification to our merchants conspired with the consideration just mentioned to recommend the course which was pursued.

If, in addition to the rest, the early manifestation of the views of the government has had any effect in fixing the public opinion on the subject, and in counteracting the success of the efforts which, it was to be foreseen, would be made to distract and disunite, this

alone would be a great recommendation of the policy of having suffered no delay to intervene.

What has been already said, in this and in preceding papers, affords a full answer to the suggestion that the proclamation was unnecessary. It would be a waste of time to add more.

But there has been a criticism several times repeated, which may deserve a moment's attention. It has been urged that the proclamation ought to have contained some reference to our treaties; and that the generality of the promise to observe a conduct *friendly* and *impartial* towards the belligerent Powers, ought to have been qualified with expressions equivalent to these, "*as far as may consist with the treaties of the United States.*"

The insertion of such a clause would have entirely defeated the object of a proclamation, by rendering the intention of the government equivocal. That object was to assure the Powers at war, and our own citizens, that in the opinion of the executive it was consistent with the duty and interest of the nation to observe neutrality, and that it was intended to pursue a conduct corresponding with that opinion. Words equivalent to those contended for would have rendered the other part of the declaration nugatory, *by leaving it uncertain whether the executive did or did not believe a state of neutrality to be consistent with our treaties.* Neither foreign Powers nor our own citizens would have been able to have drawn any conclusion from the proclamation, and both would have had a right to consider it as a mere equivocation.

By not inserting any such ambiguous expressions, the proclamation was susceptible of an intelligible and proper construction. While it denoted on the one hand that, in the judgment of the executive, there was nothing in our treaties obliging us *to become a party in the war*, it left it to be expected, on the other, that all stipulations compatible with neutrality, according to the laws and usages of nations, would be enforced. It follows that the proclamation was, in this particular, exactly what it ought to have been.

The words, "make known the disposition of the United States," have also given a pretext for cavil. It has been asked, how could the President undertake to declare the disposition of the United States? The people, for aught he knew, may have a very different sentiment. Thus, a conformity with republican propriety and modesty is turned into a topic of accusation.

Had the President announced his own disposition, he would have been chargeable with egotism, if not presumption. The constitutional organ of intercourse between the United States and foreign nations, whenever he speaks to them, it is in that capacity; it is in the name and on the behalf of the United States. It must, therefore, be with greater propriety that he speaks of their disposition than of his own.

It is easy to imagine that occasions frequently occur in the communications to foreign governments and foreign agents, which render it necessary to speak of the friendship or *friendly disposition* of the

United States, of *their disposition* to cultivate harmony and good understanding, to reciprocate neighborly offices, and the like. It is usual, for example, when public ministers are received, for some complimentary expressions to be interchanged. It is presumable that the late reception of the French minister did not pass without some assurance on the part of the President of the friendly disposition of the United States towards France. Admitting it to have happened, would it be deemed an improper arrogation? If not, why was it more so, to declare the disposition of the United States to observe a neutrality in the existing war?

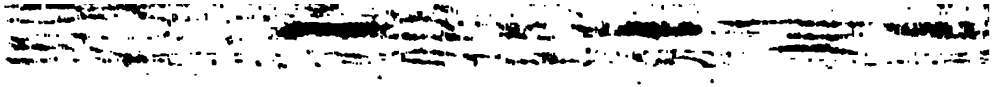
In all such cases, nothing more is to be understood than an official expression of the *political* disposition of the nation, *inferred* from its political relations, obligations, and interests. It is never to be supposed that the expression is meant to convey the precise state of the individual sentiments or opinions of the great mass of the people.

Kings and princes speak of their own dispositions, the magistrates of republics of the dispositions of their nations. The President, therefore, has evidently used the style adapted to his situation, and the criticism upon it is plainly a cavil.

PACIFICUS.[1]

[1] The adoption of the neutrality policy, and the action of Washington in declaring it, are events of the first moment in our history. To thoroughly understand them, and the motives and reasons for them, "Pacificus" is indispensable and is the best authority.

END OF VOL. IV.



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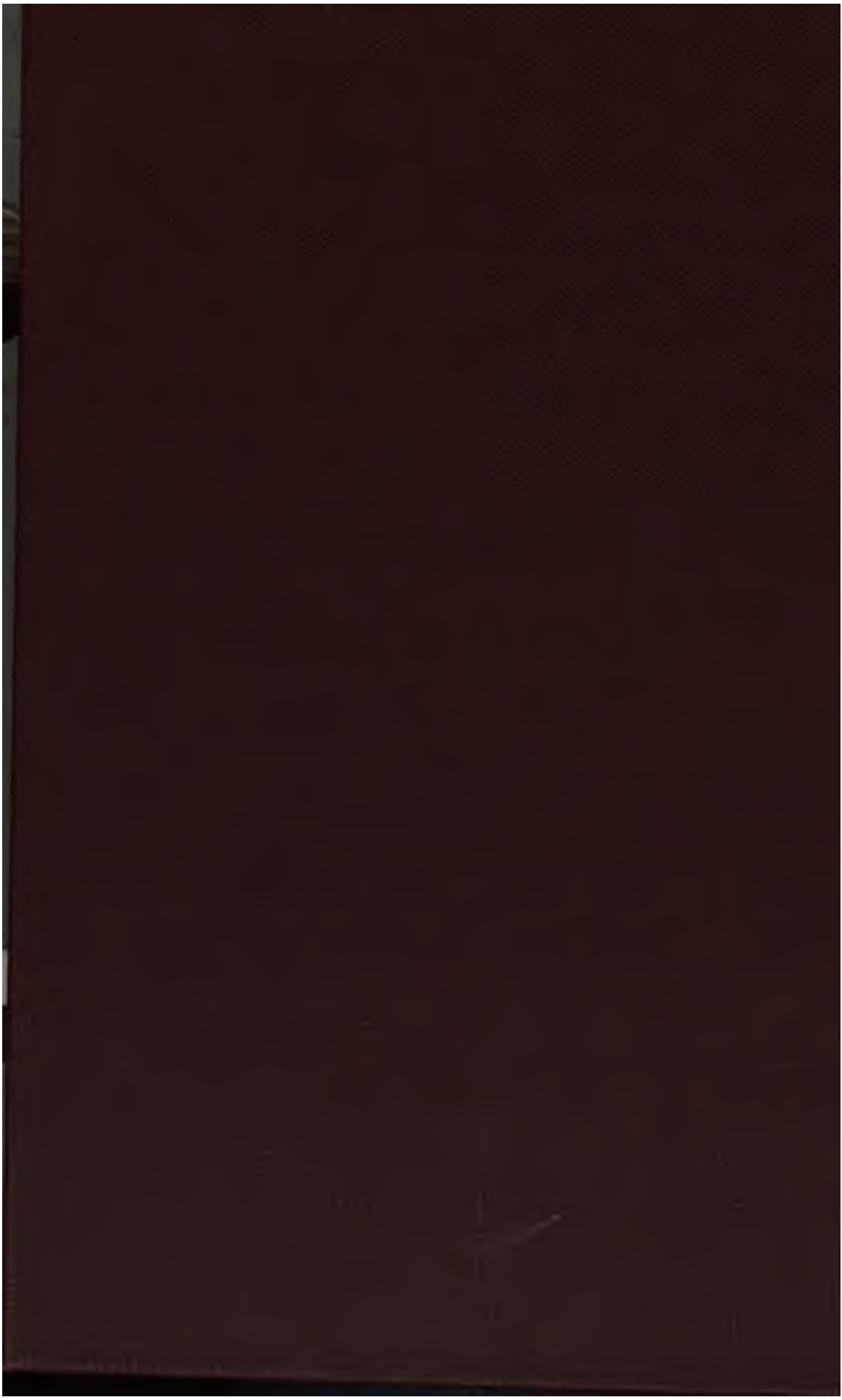
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